Petition of Nancy Smith for Clemency

OHIO PAROLE BOARD

APPLICATION AND MEMORANDUM IN SUPPORT OF CLEMENCY

THE OHIO INNOCENCE PROJECT
MARK GODSEY
P.O.Box 210040
Cincinnati, Ohio 45221
(513) 556-0107

DAVIS POLK & WARDWELL LLP
PRO BONO COUNSEL
450 Lexington Avenue
New York, New York 10017
(212) 450-4000

Ohio Parole Board
Application for Executive Clemency

1. APPLICANT'S NAME: NANCY SMITH | ALIAS:

2. **IF Confined:** INSTITUTION: | INSTITUTION NUMBER: | DATE ADMITTED:
PAROLE/PRC ELIGIBILITY DATE: | EXPIRATION OF DEFINITE SENTENCE:

3. **IF NOT Confined:** ADDRESS: STREET CITY STATE ZIP: 804 WEST 21ST STREET, LORAIN, OH 44052
DATE RELEASED ON PAROLE/PRC: N/A | FINAL RELEASE DATE: N/A
OR
DATE GRANTED COMMUNITY CONTROL/PROBATION: N/A | DATE COMMUNITY CONTROL/PROBATION COMPLETED: N/A

4. DATE OF BIRTH: 05/26/1957 | AGE: 54 | TELEPHONE NUMBER: 440-654-9607

5. TYPE OF CLEMENCY HEARING REQUESTED: ☒ Pardon ☒ Commutation ☐ Reprieve | ALTERNATE PHONE NUMBER:

6. HAVE YOU APPLIED FOR CLEMENCY IN THE PAST? ☐ YES ☒ NO - If yes, when: _____

7. OFFENSES FOR WHICH CLEMENCY IS REQUESTED: (SEE INSTRUCTIONS)

COUNTY (CITY)	CASE NO.	CRIME	DATE CONVICTED	SENTENCE
Lorain	93-CR-044489	Gross Sexual Imposition	August 4, 1994	30-90 years
Lorain	93-CR-044489	Rape	August 4, 1994	30-90 years
Lorain	93-CR-044489	Attempted Rape	August 4, 1994	30-90 years
Lorain	93-CR-044489	Complicity to Rape	August 4, 1994	30-90 years

8. ARREST RECORD: (JUVENILE AND ADULT)

COUNTY (CITY)	CASE NO.	CRIME	DATE CONVICTED	SENTENCE
None other than the above.				

9. MARITAL STATUS: Single | SPOUSE'S NAME: | NO. OF DEPENDENTS: None
EDUCATION: Lorain High School; Culinary Technology Degree from Columbus State Community College

10. EMPLOYMENT HISTORY: (PAST FIVE YEARS)

EMPLOYER	ADDRESS	TELEPHONE NUMBER	EMPLOYMENT STATUS
See attached.			

11. COMMUNITY/VOLUNTEER SERVICE: (SEE INSTRUCTIONS) (USE ADDITIONAL SHEETS IF NECESSARY)

See attached.

12. REASONS CLEMENCY IS REQUESTED: (USE ADDITIONAL SHEETS IF NECESSARY)

See attached.

13. ATTACHMENTS: (LETTERS IN SUPPORT, COURT PAPERS, DIPLOMAS, ETC.) (SEE INSTRUCTIONS)

I HEREBY SWEAR THAT THE INFORMATION CONTAINED IN THIS APPLICATION AND THE ATTACHED DOCUMENTS IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE:

Harry Smith — 4-4-12

APPLICANT'S SIGNATURE — DATE

SWORN TO AND SUBSCRIBED BEFORE ME THIS 4 DAY OF April,

NOTARY PUBLIC: [signature] MY COMMISSION EXPIRES: 1-28-2016

IF PREPARED BY ATTORNEY:

Mark Godsey

ATTORNEY'S NAME

P.O. Box 210040

ADDRESS

Cincinnati, OH 45221

William Pollak
Davis Polk & Wardwell
Pro Bono Counsel
450 Lexington Avenue
New York, NY 10017

[signature] — 4-5-12

ATTORNEY'S SIGNATURE — DATE

* *The application, along with the attachments will be provided to the sentencing court and/or prosecuting attorneys' office in the county of conviction if requested.*

DRC3068 - BACK

Lisa S Wernke
4/5/12

NOTARIAL SEAL STATE OF OHIO

LISA S. WERNKE
Notary Public, State of Ohio
My Commission Expires 07-30-2013

MEMORANDUM

To: Governor John Kasich

From: Mark Godsey, Professor of Law, University of Cincinnati and Director of the Ohio Innocence Project

Sharon Katz, James W.B. Benkard, William D. Pollak, Samir Kaushal, Justin Sommers, Davis Polk & Wardwell LLP

CC: Dennis Will, Lorain County Prosecutor

Re: Nancy Smith

Date: April 6, 2012

We write respectfully to urge the grant of a pardon, or alternatively a commutation of sentence, to Nancy Smith, a woman who is currently living a productive life in her community after having served almost fifteen years in prison for a crime that she did not commit. Despite her acquittal by the judge who recently reviewed her case and the support of numerous observers who believe in her innocence, Ms. Smith faces the prospect of an imminent return to prison to serve significantly more time if a pardon or commutation is not granted.

In 1994, Nancy Smith, a lifelong resident of Lorain, Ohio, a single mother of four, and a dutiful daughter who resided with her children and elderly parents, began serving a 30 to 94 year prison sentence as a result of convictions of sexual abuse arising out of her job as a Head Start School bus driver.

After Nancy Smith served nearly 15 years in prison, in June 2009, following some unusual procedural developments, Judge James Burge of the Lorain County Common Pleas Court reviewed the evidentiary record in Nancy Smith's case and entered a judgment acquitting

her of all charges, declaring that he had "absolutely no confidence that [the original] verdict [] [was] correct," because "no competent, credible evidence" was presented to support Ms. Smith's conviction.[1] Ms. Smith was duly released and returned to her family. Since being acquitted of these charges, Ms. Smith has quietly worked to rebuild her life by getting a job, volunteering in her community and reconnecting with her family and friends.

On January 27, 2011, the Supreme Court of Ohio held that Judge Burge lacked the jurisdiction to enter a judgment of acquittal for Ms. Smith. *State ex rel DeWine v. Burge*, No. 2010-1216, 2011 WL 251883, at *4–5 (Ohio Jan. 27, 2011). The Supreme Court's decision focused purely on the jurisdictional propriety of Judge Burge's actions and did not address his analysis regarding Ms. Smith's innocence. (*Id.*) As a result, Ms. Smith now faces the extraordinary prospect of being torn away from her family again and returned to prison after having successfully rebuilt her shattered life. She faces this prospect even though no court has taken issue with Judge Burge's conclusion that she is innocent of any crime; many persons have significant concerns that the alleged victims' testimony was contaminated; when examined in light of developments in investigative techniques, the original verdict appears deeply tainted by the contaminated testimony; and there is absolutely no societal benefit to be gained in reincarcerating Ms. Smith for another 15 to 79 years.

In 1993, the legal and medical professions had only just begun to understand the proper methods for investigating child abuse cases and, in particular, questioning young, impressionable children, and many investigative bodies had not yet developed methodologies or procedures for

[1] Transcript of Hearing ("Hearing Tr."), dated June 24, 2009, at A8–9; Merit Brief of Respondent—Appellee Judge James M. Burge at A14.

these crimes. Since then, developments in child psychology have demonstrated that the kinds of publicity generated, the discussions that occurred among adults in the presence of children, and the leading and suggestive questioning utilized in the Nancy Smith investigation and trial almost undoubtedly shaped and tainted the children's memories of events. *See, e.g.*, *State v. Wright*, 775 P.2d 1224, 1228 (Idaho 1989) (recognizing that interview techniques can "lead[] a child to imagine an event [and then] the child's memory of that imagined event will be indistinguishable from memories of events which the child actually experienced."), *aff'd*, 497 U.S. 805 (1990). Once a child's memory has been tainted, the damage is irreversible and the false "memory is, from then on, as real to the child as any other." *Id.* Taking these advancements in child psychology into account, there is a serious question, were Nancy Smith tried today, whether the primary evidence presented against her—the testimony of the alleged victims—would even be admissible. Indeed, Judge Burge, the only jurist to consider the issue, concluded that this testimony was so unreliable it would be inadmissible under today's legal norms. Hearing Tr. at A6 ("[T]his Court . . . would find the interview process so suggestive that the children's in-court testimony would be inadmissible.").

Moreover, exculpatory evidence was not presented at Ms. Smith's trial including (1) the Head Start attendance records showing that the alleged abuse could not have occurred because all the alleged victims were present in school on May 7, 1993—the day the abuse supposedly occurred (A93–A99); (2) affidavits from all of Ms. Smith's bus aides, including the bus aide present on May 7, 1993, stating that Ms. Smith dropped the children off at school on May 7, 1993, as well as on all other days (A20–26, A33–34, A39–41); (3) records showing that Ms. Smith worked two other jobs the afternoon of May 7, 1993, when the abuse allegedly occurred

(*see, e.g.*, A27–29); and (4) a videotape of a live lineup in which the children were repeatedly unable to identify Joseph Allen, the man who Nancy Smith was charged with aiding and abetting (*See* Enclosed DVD marked as Exhibit A to Nancy Smith's Application for Executive Clemency ("Lineup Video")). Further compounding trial counsel's failure to introduce any of this evidence, Nancy Smith's appellate counsel failed on appeal to raise an ineffective assistance of counsel claim addressing the failure to introduce most of this exculpatory evidence and also missed the deadline for filing a federal habeas corpus petition on her behalf.

Based on the advancements in child psychology discrediting the techniques used for investigating and questioning the alleged victims, Nancy Smith's trial and appellate counsel's ineffectiveness, the amount of time that Ms. Smith has served while steadfastly maintaining her innocence, and Ms. Smith's exemplary behavior both while incarcerated and since her release on February 4, 2009, the Lorain community overwhelmingly supports Ms. Smith's application for a pardon, or alternatively, a commutation of her sentence. Attached to this petition are numerous letters and affidavits urging you to take action that will ensure that Ms. Smith will not return to prison, including Judge Joseph C. Zieba, a retired Lorain County Common Pleas Judge (A224–25)[2]; Thomas Cantu, the original lead Detective on this case (A16–19); Anne Molnar, a Lorain City Council member (A181–82); and Deacon Louis Maldonado of the Mary Mother of God Parish (A183–84).

Nancy Smith's case is precisely the type of case for which a pardon or, alternatively, a commutation of sentence is designed. During Ms. Smith's fifteen years in prison, she compiled

[2] Judge Zieba wrote a letter in support of Nancy Smith's January 2007 parole application but, unfortunately, passed away before he had the chance to write a letter in support of clemency. (A224-25.)

an impressive record of accomplishments and, since Judge Burge's action, she has lived a law-abiding, productive life as a member of the Lorain community. She has obtained employment, volunteered through her church assisting the less fortunate members of society, and provided untold assistance to the members of her family with whom she has been given the opportunity to reunite. She became her uncle's primary caregiver prior to his recent death and helped her youngest son, who had been forced to grow up without her, to overcome his drug addiction and resurrect his life. Since being accused, Ms. Smith has never wavered from asserting her innocence, even though maintaining her innocence appears to have severely jeopardized her ability to receive parole.

Parts I and II of this memorandum address Ms. Smith's exemplary behavior in prison and her successful reintegration into society following the judgment of acquittal entered by Judge Burge. Part III outlines the background of this case with a focus on the aspects of the investigation that have subsequently been identified as the basis for concluding that the testimony of the children was tainted and unreliable. Part IV addresses the presentation of the tainted testimony at trial, the failure to present to the jury evidence or explanations for the contamination, and the failure to present other exculpatory evidence.

I. Ms. Smith's Exemplary Record Over Her Nearly Fifteen Years in Prison

Nancy Smith has already served almost fifteen years in prison. During her incarceration, Ms. Smith watched her four children grow up in foster homes without her guidance or love. She missed the deaths of her father and her aunt, graduations, numerous weddings, and the births of her eight grandchildren. Her daughter, Courtney, currently expects a child in June, and Ms. Smith desperately hopes that this will be the first grandchild that she can personally welcome

into this world. None of the goals of incarceration—retribution, deterrence, or rehabilitation—will be furthered by reincarcerating a 54-year-old woman who has already served almost fifteen years in prison.

While in prison, Nancy Smith bettered herself in every way possible. She worked hard to develop a variety of skills and completed numerous courses on topics such as domestic violence, current events, parenting, moral reasoning and development, culinary arts, finance management, and horticulture. (Certificates of Achievements and Awards at A156–73.) Ultimately, Ms. Smith's study of horticulture developed into a passion, and she successfully completed an apprenticeship in horticulture and became a horticulture instructor—teaching other students and managing the prison greenhouse. (A168.) In this role, she helped lead community service projects, including providing floral arrangements to local churches and the Governor's mansion.[3] Ms. Smith also honed her skills as a painter by participating in the Art Guild. Among other projects, she painted a large mural in the Prison Guard station and provided free paintings to the local high school and a bible camp near the prison as community service. Finally, she graduated with honors and a degree in Culinary Arts from Columbus State College and was selected to the dean's list for almost every quarter. (A173–76.)

During her ordeal, Nancy Smith has sustained her faith in God and for fourteen years served as the personal assistant to prison chaplains Father David and, then later, Father Bentz.[4]

[3] *See, e.g.*, Institutional Summary Report at A179 (indicating that in 2005 and 2006, for example, Nancy Smith completed 972 hours of community service); Certificates of Achievements at A163-67, A169.

[4] Father Bentz submitted a letter in support of Nancy Smith's application for parole in January 2007 in which he states that "I am totally convinced [that] Nancy Smith . . . was wrongfully convicted." (A226.) Father (continued) . . .

As an assistant to the Chaplain, she helped other inmates reconnect with God, prepared services, and planned retreats and events. She was honored with membership in the "Ladies of the Lord" and as an "Angel in Kairos," and the prison allowed her to participate in a church retreat. (A183.) During her incarceration, Ms. Smith maintained a nearly perfect disciplinary record, incurring only four minor conduct reports for possession of extra envelopes, possession of sweatpants, improper positioning of her television, and failing to sign in, all at the beginning of her incarceration. (A178.)

Finally, Ms. Smith has continued to work to prove her innocence. Indeed, Ms. Smith was never granted parole in large part, she believes, because she maintains that she did not commit these crimes—assuming they even occurred.

II. Ms. Smith's Successful Reintegration into Society

There is no dispute that Nancy Smith will be a law-abiding and productive member of society; she has been an upstanding member of the Lorain community for her entire life. At the age of sixteen, she got her first job in Marge's flower shop and since then she has held jobs at Hot Waters Marina, Burger King, Flowers by Joe, the YMCA, Lorain Community Action Agency, and Kaufman's Data Center. All of her past employers describe her as the ideal employee—hard working, considerate, and committed to her work. (*See, e.g.*, A218.) Indeed, while raising four children, Ms. Smith managed to hold down three jobs at once to provide her

Bentz offered to write a letter in support of Nancy Smith's clemency application but, unfortunately, passed away before he had the chance.

children with a better life. While working those jobs and raising her children[5] as a single mother, Ms. Smith also found time to take night classes to complete her high school education and earn a GED. In addition to caring for her own family, Ms. Smith has consistently volunteered to help her community. Since 1988, she has volunteered at her church, giving something back to the less fortunate in the Lorain community. With the exception of the instant offense, Ms. Smith has never been arrested or charged with a single crime, and since her release, she has not broken any laws or incurred so much as a speeding ticket.

Since being released, Nancy Smith has worked hard to reconstruct her life. She has obtained employment as a painter and housecleaner, reunited with her four children and eight grandchildren, and resumed her role as a loving and supportive mother. For example, thanks to Ms. Smith's support and guidance, her son, Chase, has managed to overcome his drug addiction,[6] obtain a job as a construction worker, and reconnect with and support his own children. (A187.) By all accounts, he has turned his life around due largely to help from his mother. Ms. Smith has also savored the opportunity to assume a large role in the lives of her grandchildren: she picks them up from school, babysits, assists them with homework, and attends their extracurricular activities. (A187–93, A198, A204–05.) Finally, since the death of her aunt, Ms. Smith acted as the primary caretaker for her uncle, Victor Rivera, who recently passed away from debilitating kidney failure.

[5] Prior to Nancy Smith's incarceration, her children did well in school and excelled in sports, including one child who became a National Roller-Skating Champion. Her children were well-adjusted and law-abiding members of society.

[6] Chase was raised in multiple homes from the age of twelve and, as a very young child, struggled to deal with the loss of his mother. He ultimately turned to drugs to deal with his grief but, since Ms. Smith's release, has turned his life around. (A187.)

In addition, Nancy Smith continues to volunteer through her church and assist the less fortunate. Forsaking material gain, Ms. Smith has donated many of her paintings and auctioned several of them to fund medical treatment for another friend dying of kidney disease. She also serves food to the homeless and helped organize a local festival through her church. Reverend Maldonado describes her as a good parent and citizen who is very involved in her church and in the attached letter also urges you to grant Ms. Smith a pardon. (A183–84.)

Finally, substantial community support exists for this application. Numerous letters have been submitted in support of Ms. Smith's application, including letters from a police officer involved in the investigation, retired Lorain county Judge Joseph C. Zieba, a former reporter assigned to the case from the *Elyria Chronicle-Telegram*, a Lorain councilwoman, and numerous lawyers, clergy, and members of the Lorain community. (A181–226.)

III. The Allegations Against Nancy Smith[7]

In understanding how Nancy Smith came to be petitioning for this relief, it is important, we believe, to understand the very serious taint on the evidence that was presented against her. The 1993 investigation into Nancy Smith's alleged sexual abuse of several children who rode the Head Start bus that she drove can only be understood within the context of what one newspaper has described as the "fury that swept the country from 1980 to 1992, [in which] there were at least 311 alleged child sex rings investigated in 46 states."[8] Of the more than thirty child sexual

[7] The facts discussed herein are largely taken directly from publicly available police reports, interview audio tapes, deposition transcripts, and trial transcripts. We have not attached any of these publicly available documents to this petition but documentary support can be provided upon request.

[8] Andrew Schneider & Mike Barber, *Lives Ruined Because Lessons Ignored*, SEATTLE POST-INTELLIGENCER, Feb. 27, 1998, at A1.

abuse cases that went to trial in the 1980s, more than half of the convictions have been reversed on appeal because of concerns that the testimonies of the child witnesses were contaminated.[9] As these courts have recognized, in the 1980s and 1990s, there was only a rudimentary understanding of the impact that suggestive questioning could have on the memories of children.[10]

On May 7, 1993, Nancy Smith was publicly accused by Margaret Grondin—whose daughter, Nikki Zelek, rode Ms. Smith's Head Start school bus—of taking Nikki to the house of an unknown man named "Joseph," where Nikki, according to Ms. Grondin, was sexually assaulted. The officers who interviewed Nikki on May 7, 1993, noted that "[m]uch of the information [was] provided [not by the child, but] by Nikki's mother," and the doctor who examined Nikki stated that she did not "show any signs of injuries to her body."

During interviews of Nikki Zelek on May 8, 11, and 13, 1993, she repeatedly denied having been abused. However, she was contradicted by her mother, who made detailed, extensive accusations against Nancy Smith and "Joseph," frequently answering questions directed at Nikki. When Nikki spoke, she "had to be coaxed by her mother" and often provided

[9] Dana D. Anderson, *Assessing the Reliability of Child Testimony in Sexual Abuse Cases*, 69 S. CAL. L. REV. 2117, 2117 n.1 (1996) (citing Ed Hayward & Tom Mashberg, *Upheaval in 80s Put the Spotlight on Child Abuse*, BOSTON HERALD, Dec. 3, 1995, at A1).

[10] *See generally Idaho v. Wright*, 497 U.S. 805, 819 (1990) (recognizing that certain safeguards, including the avoidance of leading questions, "may well enhance the reliability of out-of-court statements of children regarding sexual abuse"); *Maryland v. Craig*, 497 U.S. 836, 868 (1990) (Scalia, J., dissenting) ("[S]tudies show that children are substantially more vulnerable to suggestion than adults, and often unable to separate recollected fantasy (or suggestion) from reality."); *Washington v. Schriver*, 255 F.3d 45, 57 (2d Cir. 2001) (noting that "[a]n emerging consensus in the case law relies upon scientific studies to conclude that suggestibility and improper interviewing techniques are serious issues with child witnesses"); *State v. Michaels*, 642 A.2d 1372, 1379 (N.J. 1994).

incoherent or illogical responses.[11] Based on these interviews, the police concluded that "Nikki Zelek may have been a victim of sexual abuse in the past, but not as indicated in the complaints by her mother on the Head Start school bus, at the school, or at any alleged suspects' home."

On May 25, the police interviewed the 11 other children who rode Ms. Smith's bus. All of those children—including Antuan Powell and Amanda Weinbrenner, two of the children who would ultimately testify at trial as alleged victims—denied that any abuse occurred and denied knowing anyone named "Joseph." That evening, Ms. Grondin visited the parents of Antuan and Amanda and informed them that their children had been sexually abused by Ms. Smith and an unidentified man named "Joseph" on May 7, 1993, and on several other unknown dates. During those visits, Ms. Grondin also directly questioned Amanda and, in doing so, directly disseminated details about her own claims against Ms. Smith.[12]

In interviews with the police, Antuan's and Amanda's parents repeated in front of their children the details of the alleged abuse as provided to them by Margaret Grondin. After initially denying having been abused, during his second police interview, Antuan agreed that he had been abused. But when pressed by Detective Cantu, Antuan admitted that he was simply repeating what he had been told to say and that he "d[id]n't know what happened." The police concluded that "[a]ll of the victims . . . [were] interviewed with <u>much</u> inconsistency and lack of good evidence."

[11] Expert Report of Dr. Kathleen Quinn, Forensic Child Psychiatrist ("Expert Report") at A54. *See id.* at A53–57, A64. Nikki also originally claimed that, instead of participating in the molestation, Nancy yelled at Joseph and took a gun and a knife and told Joseph that she was going to kill him for what he had done.

[12] Expert Report at A58, A60, A67-68, A73-74, A83.

On May 28, 1993, Margaret Grondin appeared on the local news, announced that a molester was stalking Head Start children and that the police were doing nothing about it, and provided detailed information about her allegations.[13] The lead-in to the May 28 evening newscast on Channel 8 was: "Tonight, reports out of Lorain that small children were stuck with pins and forced to drink urine."[14] On the air, the news reporter confronted Charles Ellis, a white man whom Nikki Zelek had identified as her molester, outside his house. Later, Nikki Zelek, Antuan Powell and Amanda Weinbrenner, identified Mr. Ellis' house, the house shown on the news, as the location of the alleged abuse. The police later decided not to pursue Mr. Ellis as a suspect because he lived with several other men and the interior of his house did not match the description of the alleged molester's house provided by the children.

The newscast set off a media frenzy in Lorain, with numerous articles in the local papers[15] and two additional television specials during which "the children talked [on the air] 'explicitly' about the allegations of sexual misconduct."[16] Over the following months, the parents of fifteen additional children came forward, alleging that their children had been abused. Most of these allegations were transparently false: ten of these children did not ride Nancy

[13] Paul Facinelli, *Ember Turns to Wildfire?*, THE CHRONICLE TELEGRAM, October 8, 1996 at A152-53.

[14] Facinelli, *Wildfire,* at A153.

[15] The Lorain Morning Journal, for example, published more than five articles in the two weeks after the television report. *E.g.*, Teresa Hoshell, *Parents in Lorain Claim Head Start Kids Molested,* LORAIN MORNING JOURNAL, May 28, 1993; *Head Start Sex Charge Probed*, June 3, 1993; Darlene Brown & Benjamin Gleisser, *Parents Fret on Sex Case*, LORAIN MORNING JOURNAL, at A135-40. On June 13, the Journal stated in an editorial: "We want the authorities to make an arrest as soon as possible Whoever is responsible for these awful crimes against children must not be allowed to escape justice on a technicality." Facinelli, *Wildfire,* at A153.

[16] Facinelli, *Wildfire*, at A153.

Smith's afternoon bus route—the route on which the abuse allegedly occurred—and one did not even attend Head Start. There was no physical or medical evidence that any of these fifteen children had been abused by Ms. Smith. During police questioning, some of the fifteen children, including those who did not ride Ms. Smith's afternoon bus, offered details similar to those that had been broadcast on television and, according to the police, appeared scared when answering questions about "Joseph." The parents of some of these children admitted that they had questioned their children about the information in the news reports.[17] Of these fifteen children, two who actually did ride Nancy Smith's bus—Jonathan Gibson and Jessica Sharpless—were later presented at trial as Ms. Smith's fourth and fifth victims, even though they repeatedly denied in police interviews ever having been abused, and even though Jessica was found incompetent to testify.

On June 2, 1993, Nancy Smith voluntarily took a polygraph test. The results demonstrated that Ms. Smith had answered every question honestly and stated truthfully that she "did not partake in, or sexually abuse any of the alleged victims." Ms. Smith expected that the polygraph results would finally resolve the investigation and the then lead Detective agreed that the evidence pointed to her innocence.[18] The investigation continued, however, and in interviews over the next few months, the alleged victims alternated between affirming and denying that they had ever been abused.

[17] *See, e.g.*, Expert Report at A75, A78, A85; Facinelli, *Wildfire*, at A153. In addition, several of the children were questioned by reporters.

[18] Affidavit of Detective Tom Cantu, dated August 16, 2011, ¶ 22, at A18.

In October 1993, six months after the investigation began, Joseph Allen, an unskilled African-American laborer with a prior conviction for sexual battery, came to the attention of police in an entirely unrelated investigation. One of the children—who had briefly been considered an alleged victim until it was discovered that he did not ride Nancy Smith's bus during the relevant period—had said that a man named "Alan" or "Al" molested him. Based on Joseph Allen's name, appearance, and prior conviction, Mr. Allen became a suspect in the Head Start investigation.

The five children who would later be presented as victims at trial were shown a photo array that included Joseph Allen, as were five other children who claimed that they had been molested. At first, only one of these ten alleged victims identified Joseph Allen. Two days later, Nikki Zelek identified Mr. Allen but only after discussing the photo array with her mother.

On November 4, 1993, the police conducted a live lineup, which was videotaped, of five men, including Joseph Allen.[19] At the trial, the children were able to identify Mr. Allen, and the jurors heard testimony suggesting that his identity had never been in doubt. But, video of the lineup demonstrated this was not true.[20] Indeed, as already discussed, during the investigation

[19] This videotape was never shown to the jury and would have demonstrated the extent of contamination and coaching present during this investigation.

[20] One child, William Oliver, repeatedly selected the other participants in the lineup. At the trial, Emily Oliver, William's mother, when asked about William's inability to identify Joseph Allen at the live lineup, explained that William picked "everybody but [Joseph Allen]" because William was afraid of Mr. Allen:

> William didn't react. He was going, yeah, maybe, no, yeah, oh, that's him. And then Joseph stepped forward and William jumped back like this and says, that's not him. And I was like, are you sure, William? He started crying. He got all teary and ran out of the room.

Trial Tr. at 267:22–269:4.

(continued) . . .

the children identified numerous other individuals as the alleged molester.[21] When Antuan Powell was brought into the lineup room, his father, who was standing right behind him, appeared to whisper in Antuan's ear "number two,"—the position associated with Mr. Allen—after which Antuan identified Mr. Allen. (Lineup Video at 1:40–1:45.) All but one of the other seven children identified lineup participants other than Mr. Allen despite the fact that the parents directed attention, at times inadvertently, towards Mr. Allen.[22] The jury never saw the videotape of the lineup or heard testimony regarding the children's inability to identify Mr. Allen.

However, the lineup video—which was never seen by the jury—conclusively demonstrated that William never jumped back, never started crying, and never ran out of the room. Lineup Video at 37:34–41:10. To the contrary, instead of acting scared or upset, William played with the phone, mimicked the detectives, and enjoyed the experience. Indeed, one of the detectives observed that "he had a good time." *Id.* at 23:28–23:41. The jury never saw the videotape of the lineup or heard testimony regarding the children's inability to identify Mr. Allen.

Moreover, news sources have reported that Emily Oliver was taking ten or more illegally obtained painkillers a day during the period in which she allegedly witnessed the events in her testimony and, according to William Oliver, she continued to abuse painkillers during Nancy Smith's trial. *Tough Pill to Swallow*, THE CHRONICLE TELEGRAM, July 12, 1993, at A154-55; Affidavit of William Oliver, dated Sept. 16, 2011, ¶¶ 12–14, at A37–38. These painkillers included codeine-based drugs, which cause mild euphoria, confusion, changes in vision, and drowsiness, especially when taken in large doses. *See* Codeine — PubMed Health, *available at* http://www ncbi.nlm.nih.gov/pubmedhealth/PMH000056.

[21] To this point, the four- and five-year-old children had provided many different descriptions of the alleged male molester and of the location of the abuse. The alleged victims and their parents had also accused numerous people of molestation, including other bus drivers and several individuals with no connection to Head Start. For example, three of the alleged victims specifically identified Charles Ellis, a white man with no connection to Head Start, as the molester or his house as the location of the abuse. Expert Report at A59, A66. In late June, the investigation temporarily focused on another suspect, Richard Jones, because Antuan Powell identified Mr. Jones in a photo lineup, provided a description of his molester that "perfectly" matched Mr. Jones, and identified Mr. Jones' house as the location of his abuse. Antuan later admitted that his father, Frederick Powell, had pressured him into selecting Mr. Jones. Nikki Zelek also identified Mr. Jones as her molester and Amanda Weinbrenner and Jessica Sharpless identified Mr. Jones' house as the location of the alleged abuse. *See* the Lorain County Police Reports.

[22] Margaret Grondin also coached her child, Nikki, at the lineup by requesting that Joseph Allen step forward and by pushing Nikki towards selecting Joseph Allen, who was wearing a green shirt. Lineup Video at 10:40–11:10 ("Q: What color shirt is he wearing? Nikki Zelek: Blue. Margaret Grondin: That's green. Nikki: Green."). Similarly, Emily Oliver appeared to be trying to coach her son, William Oliver, by pinching his right leg when Joseph Allen stepped forward. Lineup Video at 39:40–39:50; *see also id.* at 8:05–11:08, 13:45–16:14, 42:00–45:00.

Over the course of the investigation, the detectives, not surprisingly, were confused and frustrated by the children's continually shifting stories and inability to identify Joseph Allen. But, failing to recognize the manner in which the publicity and contamination had impacted the children, the detectives attributed the children's denials and inability to identify Joseph Allen to fear. As a result, the police tried to coax answers from the children by using what experts have since noted were "leading, often repetitive, and specifically focused questions."[23] When a child gave an answer that did not fit the narrative supplied by the parents, the police gently corrected the child and pushed for the desired answer.[24] At the time, with only very limited training and experience in dealing with child victims, the detectives likely did not anticipate the effects that these suggestive techniques could have on impressionable, young minds.[25] Similarly, although the police acknowledged that there were concerns about the children being contaminated, they underestimated the impact of questioning parents in front of their children, allowing parents to question other children, and permitting the alleged victims to attend weekly group therapy sessions.[26] When viewed in light of subsequent developments in the field of child psychology,

[23] Expert Report at A56. *See also id.* at A53–58, A60–61, A64, A67–72, A74, A76–77, A80, A85–88, A92.

[24] Expert Report at A54, A57, A61, A64, A68, A74, A85.

[25] Trial Tr. 951:4–14, 1023:18–20. Research studies in child psychology have repeatedly demonstrated that children are significantly more likely to give false answers when an adult authority figure leads them to believe that their initial response was incorrect. Sena Garven, *Allegations of Wrongdoing: The Effects of Reinforcement on Children's Mundane and Fantastic Claims*, 85 J. APPLIED PSYCHOL. 38, 41–43 (2000) (demonstrating that children were more than ten times likelier to agree to a fantastic false suggestion when pushed to correct their initial responses); Stephen J. Ceci & Maggie Bruck, JEOPARDY IN THE COURTROOM, 259 (Bruce Dennis Sales ed., 1995).

[26] Expert Report at A57-58, A61, A64, A67, A80, A83–85, A92. Studies have shown that children are extremely susceptible to suggestions "made by parents, other adults, or other children prior to the first formal investigative interview or between repeated forensic or clinical interviews." Amy R. Warren & Dorothy F. Marsil, *Why Children's Suggestibility Remains a Serious Concern*, 65 LAW & CONTEMP. PROBS. No. 1, 144–145 (2002);

(continued) . . .

however, there can be no doubt that the interview techniques caused the children's stories to converge dramatically over the course of the investigation.[27] Indeed, according to Dr. Kathleen M. Quinn, a Professor of Psychiatry and a certified expert in adult and child forensic psychiatry,[28] the "[p]rofessional interviewing [in this case] was characterized by the pursuit by adults to confirm their assumptions, challenging and disbelief of data not consistent with these assumptions"[29]

Debra A. Poole & D. Stephen Lindsay, *Assessing the Accuracy of Young Children's Reports: Lessons from the Investigation of Child Sexual Abuse*, 7 APPLIED & PREVENTIVE PSYCHOL. 1, 4 (1998) (citing a study finding that mild and unintentional suggestion from a parent can substantially affect children).

[27] *See generally* Expert Report at A64, A89; Anderson, *Assessing the Reliability of Child Testimony in Sexual Abuse Cases*, *supra* note 9, 69 S. CAL. L. REV. at 2141; Stephen J. Ceci & Maggie Bruck, *Children's Suggestibility: Characteristics & Mechanisms*, 34 ADVANCES IN CHILD DEV. & BEHAV., 62 (2006).

[28] Dr. Quinn has been the Director of Training in Child and Adolescent Psychiatry at the Cleveland Clinic in Cleveland Ohio for twelve years. She graduated with honors from Harvard Medical School and was honored as one of the "Best Doctors in America" in 2007-2008. She has authored several articles and chapters of medical textbooks on forensic interviewing of children including: *Interviewing Children for Suspected Sexual Abuse*, PRINCIPLES AND PRACTICE OF CHILD AND ADOLESCENT FORENSIC MENTAL HEALTH (American Psychiatric Publishing Inc., 2010); *Influences of an Interviewer's Behaviors in Child Sex Abuse Investigations*, BULL AM. ACAD. PSYCHIATRY LAW (1989); *Investigatory Independence in Child Sex Abuse Evaluations: Conceptual Considerations*, BULL AM. ACAD. PSYCHIATRY LAW (1988); *The Credibility of Children's Allegations of Sexual Abuse*, 6 BEHAVIOR SCIENCES & THE LAW (1988); *Competency to be a Witness: a Major Child Forensic Issue*, BULL AM. ACAD. PSYCHIATRY LAW (1986).

[29] Expert Report at A74. Child psychology experts generally agree that "children can be led by a persistent interrogator to change their descriptions of what they have seen or what has been done if the event is somewhat ambiguous to start." Gail S. Goodman & Alison Clarke-Stewart, *Suggestibility in Children's Testimony: Implications for Sexual Abuse Investigations*, THE SUGGESTIBILITY OF CHILDREN'S RECOLLECTIONS: IMPLICATIONS FOR EYEWITNESS TESTIMONY 92, 102–03 (1991); Stephen J. Ceci & Maggie Bruck, *Child Witnesses: Translating Research into Policy*, 7 SOCIAL POLICY REPORT 3, 13 (Fall 1993); Stephen J. Ceci, *Children's Allegations of Sexual Abuse: Forensic and Scientific Issues*, 1 PSYCHOL. PUB. POL'Y & L. 494, 506 (1995) ("No one familiar with the scientific research ought to doubt that some children could be brought to make false claims of sexual abuse if powerful adults pursue them repeatedly with [suggestive] enjoinders.")

IV. Nancy Smith's Trial

A. The Alleged Victims' Testimony

At Nancy Smith's trial, the state presented the testimony of four alleged victims, three of whom, Jonathan Gibson, Antuan Powell, and Nikki Zelek, responded affirmatively to questions about the alleged crimes. But beyond confirming statements which previously had been reported in the press and suggested to them during questioning, the children's testimony was inconsistent and, in some instances, simply incredible.

For example, Nikki Zelek testified that:

- Bus aides Susan Coates & Elizabeth "Angel" Powell[30] and Nancy Smith's son and daughter were present at Joseph Allen's house during the abuse, although police had never charged that Ms. Coates, Ms. Smith's children or anyone else was involved in the alleged abuse and although they had concluded that Joseph Allen's apartment was not a site of alleged abuse. (Trial Tr. at 795:24–797:23, 961:3–10 (admitting that the police never identified any house as the location of the alleged abuse.)
- Other children from Head Start played unsupervised on the lawn outside of Joseph Allen's house while the abuse allegedly occurred. (*Id*. at 800:22–801:11.)
- Antuan Powell, Amanda Weinbrenner, and Jonathan Gibson were the only Head Start classmates she could name (*id*. at 779:13–20), even though Jonathan was actually in a different class.
- The home of Charles Ellis—the white man originally accused of being the alleged molester—was Joseph Allen's house. (*Id*. at 821:10–14.)

Jonathan Gibson—who had previously told the police that he had never been abused—gave equally confused testimony. He testified that:

- Instead of getting off the bus at Head Start, he, Nikki Zelek, Antuan Powell, Nancy Smith, Angel Powell and another bus aide, would stay on the bus and go to Joseph Allen's house; then, later in the day, Ms. Smith and Ms. Powell would

[30] Elizabeth Angel Powell was a Head Start employee, unrelated to Frederick and Antuan Powell.

return the children to their Head Start class without anyone noticing. (*Id*. at 517:7–522:20.)

- Joseph Allen, who it was uncontested did not work for the Head Start school bus operator, was the bus aide for the bus on which Jonathan rode. (*Id*. at 524:22–525:25.)
- Joseph Allen had shot Jonathan in the mouth with a "gun." (*Id*. at 504:25–505:22.)
- He could not remember the name of any child in his class besides the other alleged victims, Nikki Zelek and Antuan Powell. (*Id*. at 513:3–11.)
- He had been to Joseph Allen's attorney's house, where he had played with the truck found by the police at Mr. Allen's house. (*Id*. at 529:14–530:4.)
- Elizabeth "Angel" Powell, a bus aide, rather than Nancy Smith or Joseph Allen, was the person that "did . . . bad things" to him. (*Id*. at 532:19–21.)
- He was telling the truth when he told the police that "nobody touched [his] private parts." (*Id*. at 528:11–18.)

Antuan Powell testified that:

- He was taken by Nancy Smith in her car to Joseph Allen's house, and that, after being molested, Ms. Smith would return him to school, take other Head Start children out of their classes, and bring them to Mr. Allen's house. (*Id.* at 623:9–624:17.)
- On one occasion, it was so late that Nancy Smith took him directly home in her car. (*Id*. at 646:9–647:19.)
- Joseph Allen tied him to a tree in Mr. Allen's front yard and made him drink urine. (*Id*. at 593:8–21, 615:22–617:18, 644:1–5.)[31]

Amanda Weinbrenner testified that:

- Nancy Smith and Joseph Allen never touched her and that she never saw them touch any of the other children. (*Id*. at 836:3–4, 837:18–838:11, 862:6–18.)

[31] Joseph Allen lived on a main thoroughfare in Lorain in a housing complex that had very few trees and each house and surrounding yard was completely visible from the street. Trial Tr. 972:5–25. Not surprisingly, no person was ever found to have witnessed the events described by Antuan.

- Nobody touched her, nothing bad happened to her, she had never seen Mr. Allen before, and she had never been to Mr. Allen's or Ms. Smith's house. (*Id*. at 860:2–22, 862:14–18, 876:20–877:17, 879:22–880:5, 887:17–888:15.)

The jury never saw the lineup video, the early police reports, or the videotapes of the children's interviews with the police, and, as a result, the jurors had no basis for understanding the source of the children's emotionally charged but inconsistent and often illogical testimony. Indeed, because defense counsel failed to obtain and present at trial evidence of the inconsistencies with respect to any individual child and between and among the children during the investigation,[32] the jury was left to assume that the children had told consistent stories throughout the entire investigation and likely attributed the inconsistencies at trial to the fear associated with testifying. Moreover, because the jury never saw the lineup video or the videotapes of the police interviews with the children, the jury was unaware of the leading and suggestive questioning by the police. Thus, defense counsel never gave the jury a persuasive alternative explanation for why these children were making such disturbing accusations.

[32] Among other failings, defense counsel failed to obtain Detective Cantu's police reports. Those reports demonstrated numerous inconsistencies among the alleged victims' statements during the first month of the investigation. For example, those reports show that on May 25, 1993, Detective Cantu interviewed eleven children who rode Nancy Smith's bus during the period of the alleged abuse—including two of the alleged victims, Antuan Powell and Amanda Weinbrenner. All the children stated that Ms. Smith had never "touched them in a bad way" and that they had never visited Ms. Smith's home.

The reports also indicate that (1) Jessica Sharpless never clearly stated that she had been abused; (2) when Detective Cantu asked Antuan "if the information he gave was the truth, or if someone told him to say these things, Antuan stated that he was told to say this story, but then changed his story again" and said it was the truth; (3) at one point, Jonathan Gibson told Detective Cantu that Nancy Smith never touched him, and that neither Ms. Smith, nor anyone else, ever "put anything up his butt."

Detective Cantu's police reports also document the fact that ten children who did not ride Nancy Smith's afternoon bus claimed that they had been abused after a television special on the case aired. After the television special aired, Nikki Zelek, Antuan Powell, and Amanda Weinbrenner identified the house shown on television—Mr. Ellis' house—as the house where the alleged abuse supposedly occurred and Nikki Zelek identified Mr. Ellis as her molester.

Effective defense counsel would have presented this evidence in conjunction with testimony from a child psychology expert to explain to the jury: (1) the significance of the alleged victims' initial denials and inconsistencies, at the time when their memories were most accurate;[33] (2) how the fact that at least ten children who did not even ride Nancy Smith's afternoon bus, but nevertheless claimed to have been molested, was indicative of contamination; and (3) how studies have shown that months of suggestive questioning by adults can influence a child's recollection of events.[34] Most importantly, a child psychology expert could have explained to the jury how adult coaching and questioning can influence a child's memory and how the inconsistencies presented in the alleged victims' testimony were indicative of contamination. Indeed, within the child-psychology research community, "there is an overwhelming consensus that children are suggestible" and that this susceptibility to leading questions increases when (1) children are being questioned by authority figures, (2) the questioning is reinforced by their parents, (3) the children hear negative remarks about the alleged accuser, and (4) initial denials are corrected by the interviewers as wrong answers.[35]

[33] *See* Anderson, *Reliability of Child Testimony*, *supra* note 9, 69 S. Cal. L. Rev. at 2144–45 (explaining that a child "witness is most likely to give an accurate and detailed report during the first interview, and that after several interviews there is a greater likelihood that a child's memory of actual events is distorted by 'events' suggested by the interviewer") (Gail S. Goodman & Vicki Helgeson, *Child Sexual Assault: Children's Memory and the Law*, 40 U. MIAMI L. REV. 181, 195 (1985)); John R. Spencer & Rhona H. Flin, THE EVIDENCE OF CHILDREN: THE LAW AND PSYCHOLOGY, 307 (2d ed. 1993).

[34] Jennifer K. Ackil & Maria S. Zaragoza, *Memorial Consequences of Forced Confabulation: Age Differences in Susceptibility to False Memories*, 34 DEVELOPMENTAL PSYCHOL. 1358, 1369 (1998) (finding that convincing children to provide false accounts can lead them to recall the false accounts as true); Stephen J. Ceci & Maggie Bruck, *Children's Suggestibility: Characteristics & Mechanisms*, 34 ADVANCES IN CHILD DEV. & BEHAV., 62 (2006) ("At times, suggestive interviewing techniques result in false beliefs. Children who incorporate the suggestions of their interviewers come to truly believe that they were victims.").

[35] Ceci, *The Suggestibility of Children*, *supra* note 29, 86 CORNELL L. REV. at 36; Carole Peterson & Michael Bell, *Children's Memory for Traumatic Injury*, 67 Child Dev. 3045, 3059 (1996); John Myers, *Hearsay*

(continued) . . .

Every expert that has examined the children's interviews has concluded that all of these potentially exacerbating circumstances were present here. The questioning was "repetitive, suggestive and focused on the pursuit of only one [story,]" significantly increasing the likelihood of false accusations.[36] These experts have also indicated that the media reports and family-to-family spreading of information further magnified this risk.[37] As Dr. Quinn explained in her report, the combination of these improper techniques—"leading and overly specific questions," a "failure to separate fantasy from reality accounts," and a "failure to explore alternative hypotheses"—had a significant "negative impact on the reliability of the investigation."[38] But defense counsel failed to call such an expert as a witness. Indeed, with no explanation given for

Exceptions: Adjusting the Ratio of Intuition to Psychological Science, 65 LAW & CONTEMP. PROBS., No. 1, 3, 30 (2002) ("Children are sometimes more suggestible when questioned by an authority figure."); Garven, *supra* note 25, 85 J. APPLIED PSYCHOL. at 41–43; Ceci, *Jeopardy in the Courtroom*, *supra* note 25, at 131.

[36] Expert Report at A55; *see* Paul Facinelli, *Monsters or Victims*, THE CHRONICLE TELEGRAM, October 6, 1996, A148-49 (Professor Melvin Guyer concluded that "[i]n each and every interview there are clear examples of coercive techniques. There is a high incidence of suggestibility and inappropriate questioning."); *see generally* Peterson, *supra* note 35, 67 CHILD DEV. at 3059 (finding that children made roughly five times as many errors in response to directed questions as compared to open-ended ones); Karen J. Saywitz, *Children's Memories of a Physical Examination Involving Genital Touch: Implications for Reports of Child Sexual Abuse*, 59 J. CONSULTING & CLINICAL PSYCHOL. 682, 687 (1991).

[37] *See* Gabrielle F. Principe et al., *Believing Is Seeing: How Rumors Can Engender False Memories in Preschoolers*, 17 PSYCHOL. SCI. 243, 243 (2006) (demonstrating that false accusations can easily spread when children hear about an event from other children); Myers, *supra* note 35, 65 LAW & CONTEMP. PROBS. at 30.

[38] Expert Report at A64. During the investigation, the police's own child abuse expert, Dr. Richardson, became so concerned about contamination that she held a special meeting with the detectives and social workers on the case. During that meeting, she expressed concern that, as a result of the media exposure, the "families of other potential or alleged victims would, before any disclosure ha[d] been made by their child, have in their mind the details of what the allegations from Nikki were." (Deposition of Dr. Amy Richardson, dated July 1, 1998.) The jury never heard testimony from Dr. Richardson.

the children's testimony, the jury "set aside some of their misgivings" regarding the case because "kids just don't make up stuff like that."[39]

B. Exculpatory Evidence Not Presented at Trial

Nancy Smith's defense counsel failed to present available exculpatory evidence including:

- Key alibi testimony from Sherry Hagerman, the bus aide on the afternoon of May 7, 1993, the only identified date of the alleged abuse, that nothing improper occurred that day and that all the children on Ms. Smith's bus were dropped off at school and arrived home on time.[40]

- Alibi testimony from Ms. Smith's bus aides and parent volunteers—none of whom were called at trial—that Ms. Smith always had an aide or parent with her[41] and the children and Ms. Smith always dropped the alleged victims off at school and never did anything improper.[42]

[39] Facinelli, *Monsters or Victims*, A148-49 (quoting Juror Tammy Quillen).

[40] Affidavit of Sherry Hagerman ("Hagerman Aff"), dated August 18, 2011, ¶¶ 15–17, at A20-23; Absence Analysis for Sherry Hagerman for May 1993, at A125 (showing that Sherry Hagerman was not absent in May); Time Sheets for Sherry Hagerman, A128-30.

[41] An "absence analysis" put together contemporaneously by the Lorain County Community Action Agency demonstrates that one of Nancy Smith's bus aides—Eduardo Soto, Susan Coates, Angel Powell, or Sherry Hagerman—was present on Nancy Smith's bus on all but two days during the entire five-month period during which the molestation allegedly occurred. *Compare* Absence Analysis Support Data at A100–A127, *with* Affidavit of Susan Coates ("Coates Aff."), dated June 25, 2011, ¶ 2, at A24, *and* Affidavit of Eduardo Soto ("Soto Aff"), dated Sept. 10, 2011, ¶ 3, at A39, *and* Hagerman Aff. ¶¶ 13–15, A21, *and* Trial Tr. 375:8–376:9. In addition to the bus aides, several parent volunteers, including Audrey Taylor and Kymberly Spangler, rode Ms. Smith's bus during this period. Affidavit of William T. Locke, dated January 14, 1998 ("Locke Aff.") ¶ 10, at A45; Affidavit of Audrey Taylor Payne, dated June 5, 2011, at ¶ 2, A33; Affidavit of Kymberley Spangler ("Spangler Aff"), dated November 28, 2005, at ¶ 2, A26. Moreover, under Ohio law, a second adult had to be on the bus with the children at all times and, accordingly, there was a list of substitute bus aides and parent volunteers whom the manager of transportation for Head Start, Glen Thaler, was required to contact if the bus aide was absent. Ohio Administrative Code § 5101:2-12-48; Locke Aff. ¶ 8, A44-45. On days when a substitute aide or parent volunteer was unavailable to ride the bus, an office worker or the Transportation Supervisor would ride the bus. (Deposition of Glen Thaler, dated Dec. 16, 1997.)

[42] *See* Hagerman Aff. ¶¶ 6–12, 17, at A20–22; Coates Aff. ¶¶ 2–10, at A24–A25; Spangler Aff. ¶¶ 1–2, A26; Soto Aff. ¶¶ 6, 8, 9, 16, at A39–40.

- Head Start attendance records showing that Nikki Zelek was in school on May 7, 1993, and that the alleged victims were never absent on the same day.[43]

- Time cards showing that Ms. Smith worked two other jobs on the afternoon of May 7, 1993, and could not have abused the children.[44]

- A videotape of the live lineup showing the children's repeated inability to identify Ms. Smith's co-defendant Mr. Allen and demonstrating that portions of Emily Oliver's testimony was false.

Conclusion

We respectfully urge you to pardon, or alternatively commute the sentence of, Nancy Smith, a woman who has served almost fifteen years in prison for a crime that very likely never occurred. Given the advancements in child psychology and investigatory procedures for cases involving children, the deficiencies of Nancy Smith's trial and appellate counsel, and the view of so many that the fifteen years she has already spent in prison has been a tragedy for herself and her family, Ms. Smith's case deserves a fresh look. Ms. Smith has demonstrated over the last three years that she can be and will continue to be a productive and valuable member of her community. She seeks your intervention so that she need not endure the further tragedy of being torn away from her family again and returned to prison. Accordingly, we respectfully request that you pardon or commute the sentence of Nancy Smith and afford a woman who has already served almost fifteen years in prison some measure of justice.

[43] Head Start Attendance Records at A93-99.

[44] *See* Trial Tr. 1178:11–1184:8; Affidavit of Mary Molnar, dated Aug. 31, 2011, at ¶¶ 4–11, A27–28.

Petition of Nancy Smith for Clemency

OHIO PAROLE BOARD

APPENDIX

THE OHIO INNOCENCE PROJECT
MARK GODSEY
P.O.Box 210040
Cincinnati, Ohio 45221
(513) 556-0107

DAVIS POLK & WARDWELL LLP
PRO BONO COUNSEL
450 Lexington Avenue
New York, New York 10017
(212) 450-4000

TABLE OF CONTENTS

	PAGE
Judge Burge's Decision Acquitting Nancy Smith	
June 24, 2009 Complete Transcript of Proceedings	A1
September 27, 2010 Respondent's Merit Brief in *State ex rel. DeWine v. Burge*	A13
Affidavits	
Affidavit of Detective Thomas Cantu	A16
Affidavit of Sherry Hagerman	A20
Affidavit of Susan Coates	A24
Affidavit of Kymberley Spangler	A26
Affidavit of Mary Molnar	A27
Affidavit of Selena Gaddis	A30
Affidavit of Audrey Taylor Payne	A33
Affidavit of Louis Payne	A35
Affidavit of William Oliver	A36
Affidavit of Eduardo Soto	A39
Affidavit of William Locke	A42
Affidavit of Maria Louisa Soto, a/k/a Maria Louisa Mauck	A46
Affidavit of Nancy Smith	A48
Expert Reports	
EXPERT REPORTS OF DR. KATHLEEN QUINN, Forensic Child Psychiatrist	
Expert Report on Nikki Zelek	A51
Expert Report on Amanda Weinbrenner	A65
Expert Report on Jonathan Gibson	A75
Expert Report on Antuan Powell	A82
Attendance Records	
Head Start Attendance Records	A93
Bus Aide Time Records	
January 1993 - May 1993 Absences of Head Start Bus Drivers and Bus Aides	A100
Certified Record of Margot Grondin's Conviction	
Certified Record of Margot Grondin's Conviction	A131

News Articles	
Teresa Hoshell and Dan Jordan, *Parents in Lorain Claim Head Start Kids Molested,* LORAIN MORNING JOURNAL, May 28, 1993	A135
Head Start Sex charge Probed, June 3, 1993	A138
Darlene Brown and Benjamin Gleisser, *Parents Fret on Sex Case*, LORAIN MORNING JOURNAL	A139
Scott Stephens, *Head Start Case Tough for Police,* CLEVELAND PLAIN DEALER, November 14, 1993 at 1-B	A141
Joel Rutchick, *Abuse Case Goes to Jury,* CLEVELAND PLAIN DEALER, August 4, 1994	A143
Michael Higgins, *For Allen: 5 Life Terms – for Smith: 30-90 Years,* THE CHRONICLE TELEGRAM, August 4, 1994 at A1	A144
Michael Higgins, *Kids' Details Convinced Juror,* The Chronicle Telegram, August 5, 1994	A146
Paul Facinelli, *Monsters or Victims?* THE CHRONICLE TELEGRAM, October 6, 1996 at A1	A148
Paul Facinelli, *Interviews Didn't Follow Prosecutor Guidelines,* THE CHRONICLE TELEGRAM, October 6, 1996 at A4	A150
Paul Facinelli, *Ember Turns to Wildfire?* THE CHRONICLE TELEGRAM, October 8, 1996 at A1-A2	A152
Tough Pill to Swallow, THE CHRONICLE TELEGRAM, July 12, 1998 at A1	A154
Accomplishments While Incarcerated	
Certificates of Achievement	A156
Columbus State Community College Diploma	A173
Deans' List Certificate for Spring 2006	A174
Deans' List Certificate for Summer 2006	A175
Undergraduate Transcript from Columbus State Community College	A176
Lorain High School Diploma	A177
Institutional Summary Report	A178
Letters In Support of Clemency	
Letter from Anne Molnar, Lorain Councilwoman, in Support of Clemency	A181
Letter from Reverend Luis A. Maldonado	A183
Letter from Reporter Paul Facinelli	A185
Letters from Nancy Smith's Children, Chase Smith, Amber Bronish, Courtney Smith, and Adam Miller.	A187
Letters from Ohio Citizens and relatives in Support of Clemency	A193
Letter from Retired Judge Joseph C. Zieba in Support of Nancy Smith	A224
Letter from Father Barry Bentz in Support of Nancy Smith	A226
Lorain County Court of Common Pleas Documents	
Indictment	A227
Bill of Particulars	A231
Judgment Entry of Conviction and Sentence	A235

The State of Ohio,)
County of Lorain.) SS:

IN THE COURT OF COMMON PLEAS

THE STATE OF OHIO, Plaintiff;)
vs.) No. 93CR044488/94CR045372
JOSEPH L. ALLEN,)

THE STATE OF OHIO, Plaintiff;)
vs.) No. 93CR044489/94CR045368
NANCY L. SMITH, Defendant.)

COMPLETE TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, JUNE 24, 2009

APPEARANCES:

Appearing on behalf of the State of Ohio:

Lorain County Prosecutor's Office,
Dennis P. Will, Lorain County Prosecutor, by
George Koury, Assistant County Prosecutor;

Appearing on behalf of the Defendant, Joseph Allen:

K. Ronald Bailey, Esq.;

Appearing on behalf of the Defendant, Nancy Smith:

Jack W. Bradley, Esq.

The State of Ohio,)
County of Lorain.) SS:

IN THE COURT OF COMMON PLEAS

THE STATE OF OHIO, Plaintiff;	)	
vs.	)	No. 93CR044488/94CR045372
JOSEPH L. ALLEN,	)	
THE STATE OF OHIO, Plaintiff;	)	
vs.	)	No. 93CR044489/94CR045368
NANCY L. SMITH, Defendant.	)	

COMPLETE TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, JUNE 24, 2009

BE IT REMEMBERED, that on Wednesday, the 24th day of June, 2009, being one of the regular days of the April term of said court, before the Honorable James M. Burge, the presiding Judge of said court, the above-captioned cause came on for hearing.

MORNING SESSION, WEDNESDAY, JUNE 24, 2009

THE COURT: The record should reflect that we're convened today in the matter of the State of Ohio versus Nancy Smith, that would be Case Number 94CR045368, and, as well, State of Ohio versus Joseph Lee Allen, which is Case Number 94CR045372. We're here pursuant to a prior hearing wherein the Court vacated the sentence imposed upon each defendant, being a vacation of the judgment entry of conviction and sentence. The matter was appealed to the Ninth District Court of Appeals. The Ninth District Court of Appeals, in each case, ruled that the Court had the authority to vacate the sentence and the judgment entry of conviction.

When I first commenced my review of these matters, the object of the exercise was for the Court to determine what would be an appropriate sentence. The Court gave a presumption of validity to the original sentence, but thought that it would be prudent, if I were to consider a resentencing, to know as much about the case as did my predecessor when this sentence was imposed, so I decided to review the file. In that regard I read the transcript of the trial, paying close attention to the testimony of the complaining witnesses in this case, but, as well, reviewing the balance of the testimony. In addition, I was able to review evidence that had been

furnished to the defense during the course of the trial, which consisted of tape recordings of pretrial interviews with the complaining witnesses in the case.

Before I commence that analysis, I want to make clear for the record that each detective, each law enforcement officer who investigated this case, is a personal friend of mine, and for each of them I have the highest degree of respect.

The matter was prosecuted by the Lorain County Prosecutor's Office, and by an assistant with whom I did battle for over 20 years. In reviewing his presentation of the case, it was clear to me that his motive was to do the best he could for the State of Ohio and for these witnesses who testified. He took advantage of every break he could get, as did the defense, as do all lawyers who are worthy to walk into a courtroom. I don't think in the course of my law practice I ever received a ruling from a Court favorable to me that I failed to accept, and that is all the assistant prosecutor did.

I think we should be mindful that this case was commenced in 1993 and it was tried in 1994, and it was done under the circumstances that existed at that time, in terms of interviewing witnesses as best they could, and the presentation of the case. The advantage that this Court has is that I'm able to review the case with eyes

that have had an additional 16 years of experience, both in trying cases such as this and, as well, reviewing the applicable law that has applied over the years.

In 1994, testimony of witnesses of tender age could be presented to a jury either by having the witness on the stand or by not having the witness on the stand under certain circumstances, and under the authority of Evidence Rule 807. As a result of that, a great deal of the testimony presented consisted of out-of-court statements made by the child witnesses in this case, but presented by others. Evidence Rule 807 allowed other witnesses to testify on out-of-court statements by children if the trial court found that those out-of-court statements being brought to court carried with them a circumstantial guarantee of trustworthiness.

Subsequently, however, in the case of Gaston versus Brigano, that's cited at 2000 Westlaw -- 2004 Westlaw 5349214, this case was decided at approximately the same time that this case was being tried, November of 2004, and in Gaston, the Federal District Court for the Northern District -- or, for the Southern District of Ohio, ruled that essentially Evidence Rule 807 obviated the defendant's right to confront the witnesses against them. Given that ruling, this Court cannot find that the testimony of witnesses besides the children, as to the

children's out-of-court statements, would be admissible under any reasonable theory.

Reviewing the statements, the Court does not find that these statements would have been admissible under Evidence Rule 803, which would be statements made for the purpose of diagnosis and treatment, or Evidence Rule 804, which I believe is, if I can recall it, it should be the excited utterance exception; hence, that if Gaston is the law and this case has not been reversed, then that testimony should not have been admissible, and would not be admissible in a retrial.

In addition, the Court, having spent countless hours listening to the interview tapes of the children, and taking extensive notes and evaluating these interviews, the Court would find, upon review, that the pretrial interviews, though the parties were doing their best -- and I'm talking capable social workers, capable and honest detectives and parents -- even though all doing their best to seek justice for these children, caused these interviews to be conducted in such a way that, this Court, at least, would find the interview process so suggestive that the children's in-court testimony would be inadmissible.

The Court also paid close attention to the in-court testimony of the witnesses and the manner in

which it was presented, and find that -- I find that the elicitation of that testimony, and the limitation on counsel with respect to its -- their opportunity to prepare for cross-examination, even in light of the fact that the counsel were not prepared for cross-examination, would have rendered the testimony not credible.

In addition, I reviewed the disputes over the evidence that occurred during trial, especially the late delivery of the tapes of the pretrial interviews. The Court finds that the tapes of these pretrial interviews should have been presented to the defense for transcription and cross-examination -- for transcription for the purpose of cross-examination, but for an even higher purpose. Each one of these pretrial statements could have been presented on behalf of the defense as exculpatory evidence. It would not have to have been used simply to refresh a witness's recollection, or to cross-examine a witness with respect to a prior statement. These pretrial interviews could have been presented as substantive evidence, because they are part -- not only because they are exculpatory, but because they are a part of the overall police report, which a defendant may present in his own defense as substantive evidence; that is, evidence offered to prove a fact, not simply to refresh recollection, or to confront a witness with a

prior inconsistent statement.

The Court also reviewed other evidence that was furnished to the defense but not presented at trial, which included attendance records at the -- at the preschool that these children attended.

Now, under the case of the City of Cleveland versus Trzbuckowski -- that's a 1999 case -- pursuant to that case, the Supreme Court ruled that once it's been determined that the judgment entry of conviction and sentence is vacated, or if there is no final appealable order, the trial court can review any ruling that's been made up to that point, and Trzbuckowski was cited by the Ninth District Court of Appeals and remanded this matter back, as well as State ex rel. Hansen versus Reed. Trzbuckowski was cited for that authority by the Ninth District, as well as State ex rel. Hansen versus Reed, found at 63 Ohio St., it should be 3d, 597 599.

So that's what this Court is going to do.

And again, I don't believe that there was a human being in that courtroom in 1994 that was not there to do the best for his client, both defense counsel and counsel for the State of Ohio. Notwithstanding that, I have absolutely no confidence that these verdicts are correct, and therefore -- I hope I'm getting these cases right -- in Case Number 9 -- in the case of State of Ohio versus

Joseph Lee Allen, Case Number 94CR045372, and in the case of Nancy Lee Smith, and I believe that is Case Number 94CR045368 --

MR. BRADLEY: Judge, she has two case numbers.

THE COURT: Didn't this go to trial under one case number, though?

MR. BRADLEY: I think both case numbers we went to trial on, Judge; I think, also, 93CR044489.

THE COURT: Let me -- thank you, Attorney Bradley. Let me be overly cautious here, and I will recite all case numbers. I believe the State of Ohio versus Nancy Smith should be 93CR044489, and 94CR045368. The State of Ohio versus Joseph Lee Allen should be 94CR045372, and 94CR044488. That covers all case numbers, although my impression was that these matters were consolidated only under two case numbers.

Nevertheless, the Court has absolutely no confidence that these verdicts are a correct statement, and pursuant to Criminal Rule 29(C), the Court will sua sponte, the jury having been discharged, enter a judgment of acquittal on behalf of the Defendant Smith and the Defendant Allen, and this matter has an end.

The defendants are each discharged, and their bonds will be ordered released.

Attorney Koury.

MR. KOURY: Your Honor, on behalf of the State, we'd object to the ruling of the Court and its finding.

THE COURT: Thank you, Attorney Koury. The State of Ohio's objections have been noted.

We're in recess.

(Recess had.)

THE COURT: Okay. I wanted to correct one thing I said in the State of Ohio versus Nancy Smith and State of Ohio versus Joseph Allen. What I should have said is that the evidence would not be admissible under Evidence Rule 807, because essentially that evidence rule has been declared unconstitutional, nor do I find that the evidence would have been admissible -- I was correct -- under either 803(4), statements for purposes of medical diagnosis and treatment, because they were not -- or, under Evidence Rule 803(3) -- excuse me, Evidence Rule 803(2), excited utterance, because I find that the statements that were related through the testimony of the children's parents would not be excited utterances, but rather statements made during the course of a discussion.

And they would not be admissible under Evidence Rule 804, because the declarants were not unavailable, and they were found at the time to be competent to testify by

the Court.

That would conclude it.

(Hearing concluded.)

C E R T I F I C A T E

The State of Ohio,)
) SS:
County of Lorain.)

I, Tracy L. Williams, nka Tracy L. Reiman, Official Court Reporter in the Court of Common Pleas, Lorain County, Ohio, duly appointed therein, do hereby certify that this is a correct transcript of the proceedings in this case.

I further certify that this is a complete transcript of the testimony.

IN WITNESS WHEREOF, I have subscribed my name this 30th day of June, 2009.

Tracy Williams Reiman

Tracy L. Williams, nka
Tracy L. Reiman, RPR
Official Court Reporter
Lorain County, Ohio

My Commission expires July 27, 2009

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX REL. RICHARD CORDRAY, et al.,	:	CASE NO. 10-1216
Relators-Appellants,	:	On Appeal from the Lorain County Court of Appeals Ninth Appellate District
vs.	:	
HON. JAMES M. BURGE,	:	Court of Appeals Case Nos. 09CA009723 09CA009724
Respondent-Appellee.	:	

MERIT BRIEF OF RESPONDENT-APPELLEE JAMES M. BURGE

RICHARD CORDRAY (0038034)
Attorney General of Ohio

BENJAMIN C. MIZER *(0083089)
*Counsel of Record

30 East Broad Street, 17th Floor
Columbus, Ohio 43215
614-466-8980
614-466-5087 fax
Counsel for Relator-Appellant
Richard Cordray

JAMES M. BURGE (0004659)
Lorain County Justice Center
225 Court Street, Room 705
Elyria, Ohio 44035
440-329-5416
440-329-5417 fax
Respondent-Appellee
In *Pro se*

DENNIS P. WILL (0038129)
Lorain County Prosecuting Attorney

BILLIE JO BELCHER *(0072337)
*Counsel of Record
Lorain County Prosecutor's Office
225 Court Street, 3rd Floor
Elyria, Ohio 44035
440-329-5393
440-328-2183 fax
Counsel for Relator-Appellant
Dennis P. Will

RICHARD S. KASAY (0013952)
Assistant Summit County
Prosecuting Attorney
Summit County Safety Building
53 University Avenue
Akron, Ohio 44308
330-643-2800
330-643-2137 fax
Counsel for *Amicus Curiae*
Ohio Prosecuting Attorney's Association

RECEIVED
SEP 27 2010
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
SEP 27 2010
CLERK OF COURT
SUPREME COURT OF OHIO

STATEMENT OF THE FACTS

In deciding the merits of Appellants' complaint, the court of appeals relied upon the following facts.

In 1993 and 1994, codefendants Nancy Smith ("Smith") and Joseph Allen ("Allen") were indicted and charged with various sex offenses. In the judgment entry of conviction and sentence filed in each case, the trial court failed to note that Smith and Allen were found guilty by a jury.

Though the same facts were alleged against both defendants, Allen's indictment charged specifications for which the mandatory sentence is life in prison. Smith's indictment did not. Both were convicted on all counts, and upon the same evidence. Smith's counsel filed a post-verdict, Crim.R.29(C) motion for acquittal, challenging the sufficiency of the evidence. Allen's counsel did not.

Smith, in 2008 and Allen, in 2009, moved the trial court for resentencing, pursuant to Crim.R.32(C) and *State v. Baker* (2008), 119 Ohio St. 3d 197, at syllabus. Each defendant established that the judgment entry of conviction filed in his case failed to constitute a final, appealable order. Relying upon *State ex rel. Mitchell v. Smith* (2008), 120 Ohio St. 3d 278, and upon *State ex rel. McCallister v. Smith* (2008), 119 Ohio St. 3d 163, 164, together with *Baker, supra,* appellee vacated the defective judgment entries. Appellee ordered a presentence investigation report for each defendant. A presentence report had not previously been ordered for either Smith or Allen.

With a view to resentencing Smith and Allen, appellee conducted a review of the trial transcript, together with the evidence admitted in support of Smith's Crim.R.29(C) motion for acquittal. Appellee found that the evidence presented at trial against Smith and Allen was not only insufficient to sustain the separate verdicts of the jury, appellee determined that no competent, credible evidence had been presented to support the convictions of either Smith or Allen. (Tr. 6-24-09, p.7)

Relying upon *Cleveland v. Trzebukowski* (1999), 85 Ohio St. 3d 524, 526, and upon *State ex rel. Hansen v. Reed* (1992), 63 Ohio St. 3d 597, 599, appellant reconsidered Smith's Crim.R.29(C) motion for acquittal. At the same time, appellee

considered the same motion for Allen, *sua sponte.* Allen's trial counsel neglected to challenge the sufficiency of the evidence, either at the close of the evidence, or after the jury verdict was returned. Appellee then entered judgments of acquittal in each case, discharging Smith and Allen.

Thereafter, appellants filed a complaint for writ of prohibition in the court of appeals. Appellants claimed that appellee was patently and unambiguously without jurisdiction to acquit Smith and Allen. The court of appeals denied the writ in Smith's case (09CA009724), but granted the writ in Allen's case (09CA009723), holding that appellee had no jurisdiction to raise and decide, *sua sponte,* whether the evidence presented at Allen's trial was sufficient to sustain his conviction.

Appellants have filed their notice of appeal of the foregoing decision and the matter is before this court upon the merit briefs submitted by the parties and by *amicus curiae,* Ohio Prosecuting Attorney's Association.

ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW

Proposition of Law No. 1

> When a judgment entry of conviction and sentence fails to comply with Crim. R.32(C), the trial court may vacate the order, and may proceed as if the defective judgment had not been filed.

Crim. R.32(C)

A judgment entry of conviction and sentence that does not comply with Crim. R. 32(C) is not a final order. *State v. Baker* (2008), 119 Ohio St. 3d 197, at syllabus. In this regard, at the time of the error noticed by appellee, the Supreme Court had issued several rulings with respect to a defective judgment entry and suggested two options available to appellee after notice of the error.

In *State ex rel. Mitchell v. Smith* (2008), 120 Ohio St. 3d 278, and in *State ex rel.McCallister v. Smith* (2008), 119 Ohio St. 3d 163, 164, this court advised that, "the appropriate remedy is *resentencing.*" (emphasis supplied) In *Dunn v. Smith* (2008), 119 Ohio St. 3d 364, 365, and in *State ex rel.Culgan v. Smith* (2008), 119 Ohio St. 3d 535,

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

STATE OF OHIO,	:	
Plaintiff,	:	Case Nos. 93 CR 044489, 94 CR 045368
- against -	:	
NANCY SMITH,	:	Judge James M. Burge
Defendant.	:	

AFFIDAVIT OF TOM CANTU

STATE OF NEVADA :

COUNTY OF CLARK :

I, Tom Cantu, being duly cautioned and sworn, hereby state under oath as follows:

1. My name is Tom Cantu and I currently reside at 268 Fair Play Street, Henderson, Nevada, 89052.

2. From 1970 through 1995, I was a Police Officer with the Lorain Police Department. During this time, I received several commendations and citations for excellence and, in 1992, I was named Ohio "Policeman of the Year" by the Veterans of Foreign Wars.

3. From 1995 through 2001, I worked as Special Deputy Sherriff and Chief Investigative Officer for the Metropolitan Housing Department in Lorain Ohio.

4. From 2001 to the present, I have been a Deputy Sheriff with the Las Vegas Police Department.

5. On May 7, 1993, Margaret Grondin filed a complaint with the Lorain Police Department alleging that her daughter, Nikki Zelek and several other children had been molested on May 7, 1993 by her daughter's bus driver, Nancy Smith. On May 8, 1993, I was assigned to investigate the allegations contained in this complaint.

6. As the investigator assigned to the case, I started by interviewing Margaret Grondin and Nikki Zelek on May 8, May 11, May 13, and May 31, 1993. During these interviews, I was unable to obtain much useful information from Nikki because her mother continually answered the questions for her daughter and provided most of the details of the allegations. It seemed strange to me at the time that Margaret Grondin insisted on doing all of the talking, not allowing Nikki to answer many of my questions. When Nikki did talk, she often denied the allegations that her mother provided; saying that she did not remember those

things.

7. After interviewing Nikki, I checked the bus schedules, bus attendance sheets, time cards, and mileage logs for the 1993 school year, with a particular focus on May 7, 1993. I found nothing out of the ordinary and all of the records indicated that Nancy Smith always dropped all of the children off at Head Start on time. More specifically, (1) the mileage logs indicated that Nancy Smith's bus traveled approximately the same number of miles every day, (2) the time cards indicated that Nancy Smith always promptly returned to the bus depot after her afternoon route, and (3) the time cards indicated that Nancy worked for the YMCA and the Meals on Wheels program in between driving the Head Start children to and from school.

8. In addition, I checked the school attendance records for May 7, 1993, which showed that Nikki Zelek was marked present on that day.

9. On May 25, 1993, I interviewed the eleven children who rode Nancy Smith's bus. All of the children denied that Nancy Smith had done anything wrong to them and stated that Nancy was nice. The children were asked if they knew anyone by the name of Joseph and they said no.

10. I also interviewed several Head Start teachers, Head Start bus aides, and Head Start drivers. The Head Start teachers informed me that it would be against school rules to release a child to a bus driver in the middle of the school day. The teachers that I spoke with told me that they always met the buses and made sure that the children were unloaded properly and escorted into school. No teacher complained of any misconduct or suspicious behavior by Nancy Smith.

11. I also interviewed several of the Head Start drivers and bus aides and they all reported that it was Head Start's policy to have a bus aide on the bus at all times.

12. The bus aides that rode Nancy's bus all told me that Nancy always picked up the children on time and dropped all of the children off at school on time. None of the bus aides or bus drivers had witnessed Nancy do anything improper. Nobody reported knowing an African-American bus aide named Joseph.

13. I canvassed the areas around Head Start and Nancy Smith's house and no residents in those areas reported seeing anything odd involving a school bus—whether it be a school bus parked somewhere unusual or present in the neighborhood at an unusual time of day. The school buses were large, bright yellow vehicles so it struck me as unlikely that Nancy could have parked her bus at her house without anyone noticing.

14. Shortly after initiating the investigation, Margaret Grondin, Nikki's mother, contacted the parents of two children on Nancy Smith's bus, Antuan Powell and Amanda Weinbrenner, contrary to my instructions. Shortly after being contacted by Ms. Grondin, these parents brought complaints alleging that their children had been molested. When I interviewed Antuan and Amanda, however, they also provided inconsistent answers, gave different descriptions of Joseph's appearance, identified different houses as "Joseph's" house, and repeatedly denied having been abused.

15. At the end of May, Margaret Grondin went to Mayor Olejko's office and complained that there were no arrests being made. The mayor summoned me to his office and demanded immediate action. The mayor and Margaret didn't seem to care if the accused was innocent or guilty, they just wanted someone charged in the case. I ended up calling Chief Cel Rivera to help calm down Margaret Grondin.

16. Margaret Grondin also contacted the local newspapers regarding the alleged molestation occurring on the Head Start buses.

17. I believe that Margaret Grondin's interactions with other parents interfered with my investigation by making it much more difficult to obtain reliable information from the parents and children.

18. In late May, several children came forward alleging that they had been abused. These included children that had never ridden Nancy's bus. These children remained remarkably inconsistent regarding the details of the abuse.

19. The initial complainants, Nikki, Amanda, and Antuan, identified Charles Ellis' house – the house identified in the papers – as the location of the abuse. But, when I went to Mr. Ellis' house I discovered that several other people lived there with him. When I canvassed the area and spoke to residents in the area, they all said they had never seen a school bus parked in the area.

20. On May 13, 1993, Nancy Smith was contacted and advised of the complaint against her. Throughout the entire investigation, Nancy Smith was cooperative and repeatedly indicated that she had done nothing wrong.

21. In early June 1993, Nancy Smith voluntarily agreed to take a polygraph. I took her to the Bureau of Criminal Investigation in Richfield, Ohio for her polygraph test. At the conclusion of the test, it showed that Nancy had answered all of the questions in a truthful manner and passed the test.

22. After Nancy passed the polygraph, I concluded that, based on the facts developed during my five-week investigation, the charges against Nancy Smith lacked foundation. I submitted a report to the County Prosecutor summarizing my investigation and stating that there was no physical or circumstantial evidence indicating that the alleged abuse had occurred. The report also noted that there was usually a bus aide and a parent present on the bus and that the children's stories varied widely and contained numerous inconsistencies. I, therefore, recommended that the investigation be terminated.

23. Shortly thereafter, instead of being promoted to Sergeant of the Youth Bureau as I had previously been promised, I was transferred to a new division and new detectives were assigned to the case. Although this was not technically a demotion, I was doing what was widely regarded as less interesting work as a desk sergeant. Over the next few months, I followed the case and remained in contact with several of the officers assigned to the case.

24. During the first month of the case, there were significant inconsistencies between the children's stories. For example, they identified "Joseph" as being both black and white, described and identified a variety of houses as the location of the abuse, and claimed that

many other children had been abused alongside them. They also consistently denied that anything had occurred.

25. During my initial interviews with the children, I noticed that they were eager to please the interviewer and, because they were very young children, would change their answers if pressured. As a result, I tried my best not to ask leading questions or push the children to confirm any one story.

26. Based on my observations during my investigation, it is my opinion that the officers assigned to the case after my reassignment may have coaxed the children into making statements that the officers wanted to hear.

27. I wanted to testify at the trial in support of Nancy Smith's innocence. But the defense attorney, Jack Bradley, never contacted me about testifying. To this day, I can think of no valid reason why the defense would not ask me to testify at the trial.

28. If I had been subpoenaed, I would have testified that: (1) at the beginning of the investigation, the alleged victims frequently denied that they had been abused and their parents provided most of the details of the alleged abuse; (2) when the alleged victims did provide details, these details were often inconsistent and their accounts differed dramatically on basic details such as the location of the abuse, the other children present during the abuse, and the description of their alleged molester; (3) that I believed the children's stories changed over time as a result of contamination from media reports and contact with Margaret Grondin.

29. I also would have testified that, based on my experience interviewing the alleged victims, they were easily influenced by suggestive or leading questions.

30. Finally, I would have testified that, just prior to being removed from the case, I recommended the dismissal of all charges against Nancy Smith because (1) all of the Head Start records indicated that the children had been picked up on time and delivered to school on time every day, including May 7, 1993; (2) none of the bus aides or teachers had noticed anything improper or inappropriate, (3) no neighbors or people in the area had noticed a large school bus parked during the day, (4) Nancy worked multiple other jobs and would not have had the opportunity to commit this crime, and (5) Nancy passed a polygraph.

I, being duly sworn, hereby state that the foregoing facts are true and correct and are stated upon personal knowledge.

Tom Cantu

Detective Tom Cantu

Sworn to before me this
16th day of AUG, 2011.

TAMI BRAVO
Notary Public State of Nevada
No. 97-0041-1
My appt. exp. Jan. 29, 2013

Notary Public

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

STATE OF OHIO,	:	
Plaintiff,	:	Case Nos. 93 CR 044489, 94 CR 045368
- against -	:	
	:	Judge James M. Burge
NANCY SMITH,	:	
Defendant.	:	

AFFIDAVIT OF SHERRY HAGERMAN

STATE OF OHIO :

COUNTY OF LORAIN :

I, Sherry Hagerman, being duly cautioned and sworn, hereby state under oath as follows:

1. My name is Sherry Hagerman and I currently reside at 3626 Dallas Avenue, Lorain, Ohio, 44055.

2. From 1992 through 1994, I worked for the Lorain County Community Action Agency as a bus aide for Lorain Head Start.

3. In 1992 and 1993, my son, Paul Hagerman, was a student at Head Start and a passenger on Nancy Smith's bus. My son Paul liked Nancy and the other children also appeared to like Nancy.

4. In January and February of 1993, I worked as an aide on Abraham Beltran's bus. In March, I was transferred to Nancy Smith's bus.

5. In March and April of 1993, I worked as an aide on Nancy Smith's bus during both the morning and the afternoon bus routes.

6. While I was working as an aide on Nancy Smith's bus, I never saw anything improper. Nancy certainly never touched the children inappropriately. Nancy was professional, courteous, and kind with the children at all times. The children all appeared to like Nancy and none of them appeared uncomfortable around her. I never observed any children pulling away from Nancy or acting afraid of her.

7. Nancy picked the children up on time and dropped them off at school on time; I never saw her let any children off the bus anywhere other than at school. When we dropped the children at school, the teachers would always wait outside of the school and supervise the unloading of the bus. Once they had received all of the children in their class, they would escort them into the school.

8. As a bus aide, one of my responsibilities was to make sure that all of the children got off the bus at Head Start in an orderly fashion. I would supervise the unloading process and help escort the children from the bus into the school. Once the children had got off the bus at Head Start, I always checked the bus to make sure that the children hadn't left anything on the bus. I always made sure that no children were left on the bus.

9. In the evening, Nancy always dropped the children off at the designated bus stop, usually the child's house, and made sure that the person waiting at the bus stop to receive the child was a parent or a relative. If Nancy had ever dropped a child any place other than school or released a child to anyone who was not his or her parent, I would remember it and I would certainly have reported it.

10. Several of the parents of the children on Nancy's bus would also ride Nancy's bus to help supervise the children. Two parents – Audrey Taylor and Kymberley Spangler – in particular rode Nancy's bus frequently. It was Head Start's policy to always have at least two adults on the bus at a time and, to my knowledge, this policy was always followed.

11. I never saw Nancy Smith allow an unauthorized adult on the bus.

12. If Nancy had ever dropped a child anywhere other than school, allowed an unauthorized adult on the bus, or kept a child on the bus when the child was supposed to be dropped at school, this would have violated Head Start policy and I would have reported it. I specifically remember that none of these things ever occurred while I was working as a bus aide.

13. In the middle of April, Angel Powell – another bus aide – was having difficulty with her bus driver, Kathy Cole. Nancy agreed to take Angel as a bus aide because no one else would. As a result, for about two weeks, I worked as a bus aide on a different bus.

14. In early May, Angel Powell took leave and I was transferred back to Nancy Smith's bus.

15. On May 6 and May 7, 1993, I worked as a bus aide on Nancy Smith's bus.

16. I specifically remember that I worked the morning (i.e. 6:30 a.m. – 8:00 a.m.), afternoon (i.e. 12:00 p.m. – 1:30 p.m.), and evening routes (i.e. 4:00 p.m. – 6:00 p.m.) on May 7, 1993 because this was the day that Nancy Smith was later accused of molesting children. I can remember this specific day because Nancy was removed from her bus route the following Tuesday, May 11.

17. Nothing improper happened on May 7, 1993. Nancy dropped all of the children off at school and returned them home on time, just like every other day. On May 7, 1993, I confirmed that none of the children lingered on the bus and Nancy did not make any unauthorized stops.

18. Along with many of the other bus drivers and bus aides, I attended the trial of Nancy Smith in August 1994. I wanted to testify at the trial in support of Nancy Smith's innocence and along with several other bus drivers, I approached Nancy Smith's attorney, Jack Bradley, outside of the courtroom. He spoke with us for approximately five minutes outside of the courtroom.

19. I was never called to testify at trial.

20. Had I been called to testify, I would have testified that I worked as a bus aide on Nancy Smith's bus on the morning, afternoon and evening routes on May 7, 1993. As a result, I know that Nancy dropped all of the children on her bus off at school and returned them home on time, just like every other day. I would also have testified that when we arrived at school on May 7, along with the Head Start teachers, I escorted all of the children off the bus and into the school. I then checked the bus and confirmed that there were no children remaining on the bus. I also would have testified that Nancy did not make any unauthorized stops on May 7, 1993 or release any of the children to an unauthorized adult. Finally, I would have testified that Nancy did not touch any of the children inappropriately on May 7, 1993 or any other day.

21. At trial, I saw Joseph Allen for the first time. I never saw Joseph Allen near Nancy Smith's bus or in the vicinity of the Head Start school. Nancy never released any children into Joseph Allen's custody. I would have testified to these facts.

22. While I was working as a bus aide on Abraham Beltran's bus, it came to my attention that Angel Powell was interested in having a romantic relationship with Abraham Beltran. One night, after the evening route, Abraham and I returned the bus to the bus depot and Angel was waiting at the bus depot. Abraham had to clean his bus and he asked me not to leave until he had finished because he did not want to be left alone with Angel. When I asked why he was concerned about being left alone with Angel, Abraham told me that she had been following him and repeatedly making romantic overtures toward him, even though he was married. I told him that he should just tell her straight out that he wasn't interested and he insisted that he had repeatedly done so.

23. After that point, I noticed Angel waiting for Abraham on several other occasions.

24. On one such occasion, Abraham drove Nancy to the bus depot because, as I later learned, Nancy's car had broken down. I noticed that Angel became very angry and upset upon seeing Nancy arrive in Abraham's car. Had I been called to testify, I would have testified that, as a result of witnessing this event, I believed that Angel Powell resented Nancy's friendship with Abraham.

I, being duly sworn, hereby state that the foregoing facts are true and correct and are stated upon personal knowledge.

Sherry Hagerman

Sworn to before me this
18 day of Aug, 2011.

Barbara J. Krebs
Notary Public

BARBARA J. KREBS
NOTARY PUBLIC
STATE OF OHIO
MY COMMISSION EXPIRES 12-28-14

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

STATE OF OHIO,	:	
Plaintiff,	:	Case Nos. 93 CR 044489, 94 CR 045368
- against -	:	
	:	Judge James M. Burge
NANCY SMITH,	:	
Defendant.	:	

AFFIDAVIT OF SUSAN COATES

STATE OF OHIO :

COUNTY OF LORAIN :

I, Susan Coates, being duly cautioned and sworn, hereby state under oath as follows:

1. My name is Susan Coates and I currently reside at 1742 East Erie Ave., Lorain, OH 44052.

2. I started working for the Lorain County Community Action Agency as a bus aide for Lorain Head start on December 1, 1992. I worked as a bus aide on Nancy Smith's bus every day from January 1993 through March 1993. During the entire period that I was working as Nancy's bus aide, I was absent from work for only a part of one day.

3. During this period, Audrey Taylor, a parent of one of the students, would also ride Nancy's bus almost every day. Kymberley Spangler, another parent, would also frequently ride Nancy's bus.

4. Nancy was an excellent, conscientious driver who was highly committed to the safety and well-being of the children.

5. I never saw Nancy do anything improper to the children on the bus.

6. Nancy always picked up the children at the appropriate time and dropped them off at Head Start on time.

7. I never saw Nancy drop children off anywhere besides Head Start and the children's homes.

8. After March 1993, I worked as a Head Start teacher. Based on my experience as a teacher, it would have been impossible for Nancy to remove the children from a Head Start class during the day because Head Start would only release a child to a parent or relative.

9. I attended almost every day of Nancy Smith's trial.

10. I never saw anyone matching Joseph Allen's description on or near Nancy's bus. The first time I saw Joseph Allen was in court during the trial.

11. During the trial, I repeatedly pleaded with Nancy's defense counsel, Jack Bradley, to call me to testify on Nancy's behalf.

12. I was never called to testify.

I, being duly sworn, hereby state that the foregoing facts are true and correct and are stated upon personal knowledge.

Susan Coates

Susan Coates

Sworn to before me this
25th day of June, 2011.

Martin D. Yant

Notary Public



MARTIN D. YANT
Notary Public, State of Ohio
My Commission Expires 10-01-2013

AFFIDAVIT OF KYMBERLEY SPANGLER

STATE OF OHIO
COUNTY OF LORAIN, SS:

I, KYMBERLEY SPANGLER, depose and state under oath as follows:

1. My son rode Nancy Smith's Head Start bus for two years until Smith was charged with allegedly molesting some of her passengers.

2. I occasionally rode on Smith's bus during the time the molestations occurred and never saw a hint of anything improper occurring, nor did my son ever mention anything strange going on.

3. Nancy Smith was highly professional in the way she drove the bus and treated the children. The children all seemed to like her. I did not see any children acting withdrawn or scared.

4. Angel Powell, a bus aide and substitute driver who later testified against Smith, was a different story. Powell sometimes wore leather halter tops and boots to work and her style of dress was almost always inappropriate. I couldn't believe Head Start let her come to work that way.

5. Powell always seemed irritable, depressed and unhappy. She also seemed to resent Nancy, who was easy-going and popular with co-workers. I always felt uneasy when I saw that Powell was going to drive a bus full of children because I didn't trust her.

6. After Nancy Smith was charged, I called the office of her attorney, Jack Bradley, to report my observations and to volunteer to testify on Nancy's behalf. I was told several times that Bradley or someone else would get back to me, but no one ever did.

Further I sayeth naught.

Kymberley Spangler

Kymberley Spangler

Sworn and subscribed in my presence this 23rd day of Nov, 2005.

NOTARY PUBLIC

NANCY J. SCHARFELD
Notary Public, State of Ohio
My Commission Expires Nov. 28, 2008

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

STATE OF OHIO,	:	
Plaintiff,	:	Case Nos. 93 CR 044489, 94 CR 045368
- against -	:	
NANCY SMITH,	:	Judge James M. Burge
Defendant.	:	

AFFIDAVIT OF MARY MOLNAR

STATE OF OHIO :

COUNTY OF LORAIN :

I, Mary Molnar, being duly cautioned and sworn, hereby state under oath as follows:

1. My name is Mary Molnar and I currently reside at 2241 Violet Court, Avon, Ohio.

2. From September 1990 through July 2000, I worked as the child care coordinator for the Lorain County YMCA, located at 1121 Tower Blvd. in Lorain, Ohio. In this position, I was responsible for supervising the bus drivers.

3. In the fall of 1991, I hired Nancy Smith as a bus driver for the YMCA. As a bus driver, Nancy was responsible for transporting the children from different elementary schools in Lorain to the YMCA.

4. Her route often included picking up children from the Emerson, Larkmoor, and Washington schools and bringing them to the Lorain YMCA.

5. Her route began when she would pick up the bus from the YMCA between 2:00 p.m. and 2:30 p.m. in the afternoon and she would usually drop the last group of children at the YMCA by 4:00 p.m. in the afternoon. I usually witnessed Nancy arrive at work around 2:00 p.m. and return the bus around 4:00 p.m. after dropping the children at the YMCA.

6. She worked at this job Monday through Friday throughout the entire 1991-1992 and 1992-1993 school years.

7. Nancy Smith was the ideal employee. She was always punctual and she was the most dependable driver that we had. The YMCA students and parents all appeared to like Nancy and I never had a complaint regarding Nancy.

8. I am confident that Nancy worked almost every day. If, for some reason, Nancy hadn't shown up on a particular day, I would have to drive her bus. This would have been a big inconvenience for me and I only remember Nancy being absent on two occasions: (1) once when her car broke down and (2) when her grandfather died.

9. Nancy Smith worked at the YMCA on May 7, 1993, the day that she allegedly abused some children at Head Start. On May 7, 1993, she arrived at work on time at approximately 2:00 p.m. and picked up the YMCA children per usual and dropped them off at the YMCA around 4:00 p.m.

10. Our drivers, including Nancy Smith, were required to clock in and out of work and we used time cards to document the hours worked by every driver.

11. I provided Nancy Smith's time cards to Jack Bradley. These time cards supported my testimony and showed that Nancy had, with only the two aforementioned exceptions, worked at the YMCA every day including May 7, 1993. The time cards also showed that Nancy was always on time for work and arrived for work between 2:00 p.m. and 2:30 p.m. and returned the bus at approximately 4:00 p.m.

12. Prior to the start of the trial, I never spoke to Jack Bradley, Nancy Smith's attorney about my testimony.

13. I attended Nancy Smith's trial. A few days before I testified, Jack Bradley spoke with a group of Nancy's friends, myself included, gathered outside of court for approximately ten minutes.

14. I was surprised that Jack Bradley did not want to prepare me for cross-examination or gather more information from me. I was surprised when he did not ask me to testify about the time cards that I had given him.

15. During the trial, several of the alleged victims were playing in the hall room outside of the court-room. When one of the alleged victims saw Nancy Smith, the alleged victim excitedly said "Ms. Nancy!!" and ran towards Nancy before the victim's family stopped her. She showed no signs of being afraid of Nancy or traumatized by her alleged abuse.

16. My son, Jeremy, who was 4 or 5 in 1993, always liked Nancy. I completely trusted Nancy around Jeremy and I left Jeremy alone with Nancy on many occasions. My son was always excited to see Nancy and never pulled away from her or appeared uneasy around her. He never complained that Nancy had done anything improper.

I, being duly sworn, hereby state that the foregoing facts are true and correct and are stated upon personal knowledge.

Mary Molnar

Sworn to before me this
31 day of Aug, 2011.

Notary Public



WILMA A. MELENDEZ
Notary Public, State of Ohio
My Commission Expires
January 3, 2016

14.01

IN THE COURT OF COMMON PLEAS

LORAIN COUNTY, OHIO

N.Z., A Minor, By and Through Her Parent and Natural Guardian, et al.,	)	CASE NO. 96 CV 116729
Plaintiffs,	)	JUDGE EDWARD M. ZALESKI
-vs-	)	
LORAIN HEAD START, et al.,	)	AFFIDAVIT OF SELINA GADDIS
Defendants.	)	

SELINA GADDIS, being first duly sworn, deposes and states as follows:

1. I am currently employed by the Lorain County Community Action Agency ("LCCAA" or the "Agency") as its Executive Vice President and Chief Operating Officer, and have held that position since 1995. Prior to that time, I was employed by the Agency as its Director of the Head Start Program, and held that position from 1986 to 1995. In that position, I had overall responsibility and oversight for the Head Start Program. I had been working with the Lorain Head Start Program since 1975.

2. During the 1992-1993 school year, LCCAA operated 28 classes with a total enrollment of 725 children coming from 680 families. Of those families, all but 44 had family income under $15,000.

3. The Head Start Program is designed to integrate parents into the Program based on the belief that gains made by the child must be understood and built upon by the family and community. Thus the Head Start Program provides for the involvement of a

child's parents into the experiences the child receives. The Program strives to provide parents the fullest possible involvement in every aspect of the Program.

4. Parents are (and were in 1992-1993) provided with a detailed orientation to the Program, including a parent handbook explaining the Head Start Program and its various components, and providing information on parents' rights and responsibilities and a complaint procedure. Parents are also given a Head Start Policy Manual related to parents and parent involvement in the Program.

5. Parents are invited and encouraged to volunteer and visit the classroom and to ride on the bus. They may do so without prior notice, and can even earn awards and gifts for doing so.

6. The Head Start Program had in 1992-1993, and continues to have, a specific procedure for teachers to collect children when they arrive at school. Busses wait with the children on the busses until all the busses arrive. One teacher from each classroom goes outside to meet the children as they come out of the busses. Once in the classroom, teachers take attendance on a daily basis. If a child is absent for three consecutive days, parents are contacted. All these procedures were in place in 1992-1993.

7. On or about May 10, 1993, I received a call from Margaret Grondin. She indicated her belief that her child was sexually molested by Nancy Smith. I had never heard any such allegations about Nancy Smith or any other Head Start employee. In response to those allegations, we immediately removed Nancy Smith from any contact with Head Start children. Attachment 1 is a true copy of a letter sent to Nancy Smith documenting her reassignment.

8. I tried to cooperate with police on all matters related to the investigation of Nancy Smith. As part of that investigation, the police asked me for a number of documents,

all of which I turned over to them. These included bus attendance logs and some of the mileage charts from Nancy Smith's bus. I did not realize at the time these were original documents.

9. In the 18 years I had been working with the Lorain Head Start Program prior to 1993, I had never received any allegation of an LCCAA employee, or any other employee working with the Head Start Program sexually abusing or molesting a child.

Further affiant sayeth naught.

Selina Gaddis

SELINA GADDIS

SWORN TO BEFORE ME and subscribed in my presence this 14th day of January, 1998.

Jonalyn M. Krupka

Notary Public

JONALYN M. KRUPKA
Notary Public for the State of Ohio
My Commission Expires Feb. 10, 1998

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

STATE OF OHIO,	:	
Plaintiff,	:	Case Nos. 93 CR 044489, 94 CR 045368
- against -	:	
	:	Judge James M. Burge
NANCY SMITH,	:	
Defendant.	:	

AFFIDAVIT OF AUDREY TAYLOR PAYNE

STATE OF OHIO :

COUNTY OF LORAIN :

I, Audrey Taylor Payne, being duly cautioned and sworn, hereby state under oath as follows:

1. My name is Audrey Taylor Payne and I currently reside at 1849 Washington Ave., Lorain, OH 44052.

2. I was a volunteer bus aide on Nancy Smith's afternoon bus route in 1993. I rode Nancy's bus almost every day. My son, Lazarus Taylor, also rode Nancy's bus during this time period.

3. I never saw Nancy touch any of the children on the bus in an inappropriate manner. The children liked Nancy and she always behaved professionally and appropriately towards the children.

4. Nancy was always punctual in picking up the children and dropping them off at school. I certainly never saw Nancy drop children off anywhere besides Head Start or the children's homes.

5. I wanted to testify as a witness on behalf of Nancy, but I was never called to testify at trial.

I, being duly sworn, hereby state that the foregoing facts are true and correct and are stated upon personal knowledge.

Audrey Taylor Payne
Audrey Taylor Payne

Sworn to before me this
21st day of June, 2011.

Martin D. Yant
Notary Public



MARTIN D. YANT
Notary Public, State of Ohio
My Commission Expires 10-01-2013

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

STATE OF OHIO,	:	
Plaintiff,	:	Case Nos. 93 CR 044489, 94 CR 045368
- against -	:	
	:	Judge James M. Burge
NANCY SMITH,	:	
Defendant.	:	

AFFIDAVIT OF LOUIS PAYNE

STATE OF OHIO :

COUNTY OF LORAIN :

I, Louis Payne, being duly cautioned and sworn, hereby state under oath as follows:

1. My name is Louis Payne and I currently reside at 1849 Washington Ave., Lorain, OH 44052.

2. My son, Lazarus Taylor, rode Nancy's bus and I saw Nancy on the job.

3. Nancy was fantastic with the children that rode her bus and went out of her way to be kind to the children and their parents.

4. Before Nancy's trial, I saw Jack Bradley on the street and told him that I and my wife, Audrey Taylor Payne, would like to testify on Nancy's behalf.

5. Jack Bradley never contacted me and I never testified at trial.

I, being duly sworn, hereby state that the foregoing facts are true and correct and are stated upon personal knowledge.

Louis Payne
Louis Payne

Sworn to before me this
25th day of June, 2011.

Martin D. Yant
Notary Public

NOTARIAL SEAL STATE OF OHIO

MARTIN D. YANT
Notary Public, State of Ohio
My Commission Expires 10-01-2013

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

STATE OF OHIO,	:	
Plaintiff,	:	Case Nos. 93 CR 044489, 94 CR 045368
- against -	:	
	:	Judge James M. Burge
NANCY SMITH,	:	
Defendant.	:	

AFFIDAVIT OF WILLIAM OLIVER III

STATE OF IDAHO :

COUNTY OF ADA :

I, William Oliver, being duly cautioned and sworn, hereby state under oath as follows:

1. I am publicly known as William James Oliver, III. I was born on July 8, 1988, to a woman named Leonna Pass. My name at birth was William James Pass.

2. It is my understanding from conversations with my mother, Leonna Pass, and my mother's cousin, Emily Oliver, that on or about July 11, 1988, Emily Oliver and her husband Bill Oliver, Jr. took me to Ohio without my mother's knowledge. For the next twenty years or so, Emily Oliver and Bill Oliver, Jr. told me that I was their son, William Oliver, III. They changed my name and publicly presented me as their child. My real mother, Leonna Pass, had no idea as to my whereabouts.

3. It was only recently, after the death of Emily Oliver, that I learned that Emily was not my real mother. I learned of the aforementioned facts from Emily Oliver's will, which stated that my real mother was Leonna Pass. I then spoke with Emily Oliver's mother, Catherine Price, who told me the truth about my birth and how Emily Oliver had taken me from my real parents. I then contacted my real mother, Leonna Pass, who confirmed that Emily Oliver had taken me from her only three days after my birth and that Leonna Pass had no knowledge of my whereabouts for the last twenty years.

4. In 1992 and 1993, I attended the Nativity Head Start school in Lorain, Ohio.

5. In 1993, Emily Oliver and Bill Oliver, Jr. moved to Boise, Idaho and took me with them. We lived at 2247 Green Street in Boise, Idaho.

6. In July 1994, Emily Oliver took me back to Lorain, Ohio to testify at the trial of Nancy Smith and Joseph Allen.

7. Emily Oliver told me repeatedly over the last twenty years that I was abused by Joseph Allen and Nancy Smith.

8. I do not remember ever being abused by Nancy Smith or Joseph Allen. I do not remember ever meeting Joseph Allen or going to his house. I do not remember Joseph Allen grabbing my arm or teaching me about humping. I do not remember being scared of either Joseph Allen or Nancy Smith and I have no recollection of running out of the lineup room because I was scared.

9. I do remember other events from this time period. For example, shortly after I moved to Idaho in 1993, Bill Oliver, Jr. was questioned by the police after I accused him of hitting me. I distinctly remember this incident.

10. I have no doubt that if I had been molested, I would remember such an event having occurred. As a result, I am confident that I was never molested by Joseph Allen or Nancy Smith.

11. At or around 2000, I was temporarily placed in foster care. During this time, I was molested by my foster brother. This event was terrible and extremely traumatic. It became seared into my memory and I remember it very well. As a result, this experience made me even more confident that if I had been molested in 1992 or 1993, I would remember it today.

12. Emily Oliver was addicted to painkillers in 1992 and 1993 and throughout my childhood. While on painkillers, Emily Oliver would become extremely confused, drowsy, and irritable. I first noticed that Emily Oliver would fall into a state of deep drowsiness, unlike other people, that rendered her confused and unable to communicate. I also remember that while under the influence of pain killers she would slur her words, fall asleep while standing, sway back and forth, experience vertigo and walk around the house without realizing that she was not wearing any clothing. Often, I would find Emily Oliver awake at strange hours of the night or in a state of deep sleep during the day from which it was very difficult to awaken her. When I did wake her up, she would be confused and angrily deny that she was sleeping.

13. She would go to great lengths to obtain drugs, including faking injuries, intentionally injuring herself, and stealing drugs. When I was a little child Emily Oliver would take me to the hospital and make me fake injuries to my knees, ankles, arms, legs and neck. She would then steal the drugs that were prescribed to treat my injuries. When I did sustain legitimate injuries, she would steal the drugs proscribed to treat those injuries as well.

14. I remember that Emily Oliver was abusing large amounts of pain killers both during the trial of Nancy Smith and Joseph Allen and during the time that we lived in Lorain during which she allegedly witnessed the events to which she testified. She was never able to effectively overcome her addiction, even for a short period of time.

I, being duly sworn, hereby state that the foregoing facts are true and correct and are stated upon personal knowledge.

William James Oliver III

Sworn to before me this
16 day of September 2011.

Notary Public, State of Idaho
commission expires: 9/10/13

JAMES G. QUINN
NOTARY PUBLIC
STATE OF IDAHO

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

STATE OF OHIO,	:	
Plaintiff,	:	Case Nos. 93 CR 044489, 94 CR 045368
- against -	:	
	:	Judge James M. Burge
NANCY SMITH,	:	
Defendant.	:	

AFFIDAVIT OF EDUARDO SOTO

STATE OF FLORIDA :

COUNTY OF COLUMBIA :

I, Eduardo Soto, being duly cautioned and sworn, hereby state under oath as follows:

1. My name is Eduardo Soto and I currently reside at 169 SW Newport Lane, Fort White, FL 32038.

2. From September 1992 to on or about [January 1993], I was employed by the Lorain Community Action Agency as a bus aide and bus driver for the Lorain Head Start program.

3. From very early in the 1992 school year, approximately September or October, through January 1993, I worked as a bus aide on Nancy Smith's morning and afternoon bus routes.

4. In late January 1993, I became a bus driver for the Head Start bus program and Susan Coates took over as Nancy Smith's bus aide.

5. While I was working on Nancy's bus, she always followed the rules. She was always respectful to the students and parents. All of the children appeared to like Nancy and none of them appeared uncomfortable or afraid of Nancy. I never observed any children shying away from Nancy. Nancy always behaved appropriately around the children.

6. Nancy always picked the children up at their houses and dropped them off at school. I never saw her let a child get off the bus anyplace other than school. In the evening, Nancy would always take the students directly home and she

would only release the child if there was a parent or relative at the bus stop. I never saw Nancy make any unauthorized stops.

7. As a bus aide, one of my responsibilities included unloading the children at school. We kept attendance sheets on the bus and when we arrived at Head Start in the morning, I would always check to make sure that every child that had gotten on the bus, got off the bus. I would then escort them, along with their teachers, into school. Once the children got off the bus at Head Start, I always checked the bus to make sure that no children were left on the bus.

8. I never saw Nancy do anything improper during her employment as a bus driver for Head Start. Nancy never touched the children inappropriately. Had I seen her do so, I would have reported it to Head Start.

9. If Nancy had ever dropped a child anyplace other than school or released a child to anyone who was not their parent, I would have reported it and I certainly would remember it.

10. I never saw Nancy Smith allow an unauthorized adult on the bus. To my knowledge, there was always a bus aide on the bus with Nancy at all times.

11. If Nancy had ever dropped a child anywhere other than school, allowed an unauthorized adult on the bus, or kept a child on the bus when the child was supposed to be dropped at school, this would have violated Head Start policy and I would have reported it. I specifically remember that none of these things ever occurred while I was working as Nancy's bus aide.

12. During the time that I worked as a Head Start bus driver and bus aide, Margaret Grondin and I became friendly.

13. At some point after the start of the investigation, Margaret Grondin came to my house and told me that her daughter, Nikki, had changed her story and was saying that she had never been abused and nothing improper had ever happened.

14. That same night, Margaret also told me that Nikki had, at various times, accused Angel Powell, not Nancy, of taking her and other Head Start children to an unknown man's house.

15. I testified at Nancy's trial but Nancy's attorney, Jack Bradley, did not meet with me or interview me prior to trial.

16. I was prepared to testify that from September or October 1992 through January 1993 I was a bus aide on Nancy Smith's bus and I never witnessed any improper behavior. I would have testified that (1) Nancy always picked up the children and dropped them off at school on time, (2) that Nancy never dropped the children off anywhere other than school or their homes, (3) that I checked the bus everyday and no children remained on the bus

after we unloaded the other children at school, and (4) that Nancy was always respectful to the students and they all appeared to like her.

17. Unfortunately, I never got to testify to these facts in court because Jack Bradley failed to ask me about these issues while I was on the witness stand.

I, being duly sworn, hereby state that the foregoing facts are true and correct and are stated upon personal knowledge.

Eduardo Soto

Sworn to before me this
10 day of Sept., 2011.

Notary Public

MARSHA B. WARD
Notary Public - State of Florida
My Commission Expires May 26, 2012
Commission # DD 791758
Bonded Through National Notary Assn.

14.02

IN THE COURT OF COMMON PLEAS

LORAIN COUNTY, OHIO

N.Z., A Minor, By and Through Her Parent and Natural Guardian, et al.,	)	CASE NO. 96 CV 116729
Plaintiffs,	)	JUDGE EDWARD M. ZALESKI
-vs-	)	
LORAIN HEAD START, et al.,	)	AFFIDAVIT OF WILLIAM T. LOCKE
Defendants.	)	

William T. Locke, being first duly sworn, deposes and states as follows:

1. I am President and Chief Executive Officer of the Lorain County Community Action Agency ("LCCAA" or the "Agency"). While my title has changed over the years, I have held this position since June 1988. In this position I have overall responsibility for the Agency. Between August 1986, when I first started with the Agency, and June 1988, I was employed by the Agency primarily as its Deputy Director for Operations.

2. "Lorain Head Start" is the name of a program operated by LCCAA. Lorain Head Start is not an incorporated entity.

3. LCCAA is funded primarily by the U.S. Department of Health and Human Services (for the Head Start Program) and by the State of Ohio through the Department of Education (for the Head Start Program) and the Ohio Department of Development (for a variety of other programs). The Agency relies on public State and Federal funds for 94% of its budget, while most of the remaining 6% comes from income generating or fees for

service activities, all of which is subject to audit. LCCAA was created in May 1966. It has been the funding agent for the Head Start Program since close to the Agency's inception and it has been directly operating the program since 1986.

4. In addition to the Head Start Program, LCCAA operates a number of other programs, including, for example, delivering food for the elderly, helping people weatherize their homes, assisting with winter energy payments, providing senior citizen transportation and senior citizen employment. All programs are designed primarily to assist individuals with low to moderate levels of income. LCCAA serves eligible persons throughout Lorain County.

5. The Head Start Program during 1992-1993 was primarily a half-day program for pre-school children. With the exception of a limited number of full-day classes, each child attended either a morning or an afternoon session. Records show that all the minor plaintiffs in this action attended the afternoon session which ran from 1:30 to 5:00 pm. Classes were held on Tuesdays through Fridays, and Mondays were used to provide employees training, and meeting time.

6. LCCAA has a transportation function which services its various programs. During the 1992-1993 school year, the Agency owned school busses which were used to provide transportation to Head Start children. The Head Start busses are all designed to carry well over nine passengers, and are clearly designated as Lorain County Head Start busses. "School Bus" is painted in bold letters. The busses are the normal school bus yellow color. They are marked "STOP" in large letters on the back and are equipped with the requisite red and amber flashing lights.

7. Personnel records (a true copy of which are attached hereto) show that Nancy Smith was hired as a bus driver in 1990. At the time she was hired, she filled out an

application form with three references. Attachment 1. The Agency followed up on her references, sending each a Background Reference Check form, and receiving three signed references. Attachment 2. She signed a statement that she has not been convicted of or pleaded guilty to a variety of crimes, including child abuse, abduction and a number of sex-related crimes. Attachment 3. An orientation was provided by the Director of Human Resources, which included an explanation of the mission and functions of the Agency, provision of a copy of the personnel policies and procedures and job description, explanation of performance evaluations and work regulations, explanation of the confidential nature of the work and a variety of other explanations and work requirements. Attachment 4. She was required to attend, and passed a Red Cross Safety Training session in first aid and CPR, and took another course in communicable disease management. Attachment 5. The Agency checked her driving record and found she had a clean driving record. Attachment 6. She was required to attend and pass a school bus driver training program, which program includes obtaining the Commercial Drivers License (CDL). Attachment 7. She signed a confidentiality statement indicating she would not discuss the children outside the Agency. Attachment 8. She had a physician sign a medical statement indicating she is free from apparent communicable diseases and has been properly immunized from others. Attachment 9.

8. During the 1992-1993 school year, each Head Start bus was assigned a paid bus aide. The Agency's practice was to follow state regulations requiring two adults on every bus carrying seven or more preschool children. Once the busses arrived at the buildings where the Head Start program was located, they would wait with the children on the bus until all the busses arrived. One teacher from each classroom would go outside to meet the children as they alighted from the busses. In the 1992-1993 school year, a majority

of the Lorain city classrooms were at the Nativity Church while a few classrooms were at City Center.

9. Once in the classroom, teachers took attendance on a daily basis. If a child was absent for three consecutive days, parents are contacted.

10. Head Start parents were encouraged to ride the bus with their children and to attend the Head Start classes with their children, referred to as "volunteering" on the bus or in the classroom. Parents were able to volunteer without prior notice.

11. Parents also were provided with a detailed orientation program, including a handbook outlining Agency rules and regulations.

12. In the nearly 7 years I had been with the Agency prior to May 1993, I never received any prior allegation that any agency employee had ever sexually abused or molested a child.

Further affiant sayeth naught.

WILLIAM T. LOCKE

SWORN TO BEFORE ME and subscribed in my presence this 14th day of January, 1998.

Notary Public

JONALYN M. KRUPKA
Notary Public for the State of Ohio
My Commission Expires Feb. 10, 1998

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

STATE OF OHIO,	:	
Plaintiff,	:	Case Nos. 93 CR 044489, 94 CR 045368
- against -	:	
NANCY SMITH,	:	Judge James M. Burge
Defendant.	:	

AFFIDAVIT OF MARIA LOUISA SOTO

STATE OF OHIO :

COUNTY OF LORAIN :

I, Maria Louisa Soto, being duly cautioned and sworn, hereby state under oath as follows:

1. My name is Maria Louisa Soto and I currently reside at 1911 East 40th Street, Lorain, Ohio, 44055. From August 29, 1986, until my divorce on December 12, 1994, my name was Maria Louisa Mauck.

2. From November 1989 through April 1993, I was employed by Lorain County Community Action Agency as a bus aide and bus driver for Lorain Head Start.

3. In 1993, I was interviewed by a Lorain police detective who was investigating allegations that Nancy Smith had abused several children who attended Head Start. I informed the detective that I did not believe Nancy Smith could have committed this crime because the Lorain County Community Action Agency closely monitored its drivers and always made sure that there were at least two adults on the bus.

4. In 1994, I was subpoenaed to testify for the prosecution in the trial of Nancy Smith and Joseph Allen.

5. While waiting in the hallway outside the courtroom, I was approached by Assistant Prosecutor Jonathan Rosenbaum. Mr. Rosenbaum read a police report to me stating that I had told a detective that (1) I had seen Joseph Allen hanging around the Nativity School during school hours and (2) that I had gotten in trouble with the bus company for letting Nancy Smith take her bus out of the depot earlier than scheduled.

6. I told Mr. Rosenbaum that both of these statements were false and that I had never said either of these things to the detective.

7. First, I informed Mr. Rosenbaum that the first time I ever saw Joseph Allen was that day at the courthouse.

8. Further, I told Mr. Rosenbaum that I had never seen Nancy Smith deviate from the normal bus schedule or leave the depot with her bus earlier than permitted. I also informed Mr. Rosenbaum that I had never complained to anyone regarding Nancy Smith and I had never gotten in trouble with the Lorain County Community Action Agency for allowing Nancy Smith to deviate from her normal bus schedule.

9. I also informed Mr. Rosenbaum that a driver could not take a bus from the bus depot at 10:30 am or 10:45 am because the Head Start buses were closely monitored by Gloria Jones, Glen Thaler, and Mary Zarellis.

10. Finally, I told Mr. Rosenbaum that based on my experience delivering meals with Nancy Smith for the Meals on Wheels Program, it would be impossible for Nancy Smith to complete the Meals on Wheels deliveries and return to the bus depot by 10:30 am or 10:45am.

11. After I informed Mr. Rosenbaum of these facts, Mr. Rosenbaum said "get her out of here, we can't use her."

12. After he said that to me, I left and I was never called as a witness at the trial.

13. I do not recall ever being questioned about the police report by anyone other than Mr. Rosenbaum.

I, being duly sworn, hereby state that the foregoing facts are true and correct and are stated upon personal knowledge.

Maria L Soto

Maria Louisa Soto

Sworn to before me this
23th day of June, 2011.

Martin D. Yant

Notary Public

NOTARIAL SEAL
STATE OF OHIO

MARTIN D. YANT
Notary Public, State of Ohio
My Commission Expires 10-01-2013

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

STATE OF OHIO,	:	
Plaintiff,	:	Case Nos. 93 CR 044489, 94 CR 045368
- against -	:	
	:	Judge James M. Burge
NANCY SMITH,	:	
Defendant.	:	

AFFIDAVIT OF NANCY SMITH

STATE OF OHIO :

COUNTY OF LORAIN :

I, Nancy Smith, being duly cautioned and sworn, hereby state under oath as follows:

1. My name is Nancy Smith and I currently reside at 804 West 21st Street, Lorain, Ohio, 44052.

2. From September, 1990 until May 11, 1993, I worked for Lorain County Community Action Agency as a bus driver for Lorain Head Start.

3. On May 11, 1993, my supervisor, Selena Rush, informed me that one of the students on my bus had accused me of molesting her.

4. On May 13, 1993, Detective Cantu informed me that the police had opened an investigation into whether I had molested a child on my Head Start bus.

5. Eager to prove my innocence, I told Detective Cantu that I never improperly touched or molested any of the children on my bus. I also told him that there was always a bus aide on the bus with me and often a parent aide as well. I also agreed to take a polygraph exam in order to show Detective Cantu that I was telling the truth.

6. After being contacted by Detective Cantu, I hired Jack Bradley to represent me at trial. I first met with Jack Bradley in May 1993. During this initial meeting and subsequent meetings, I informed Jack Bradley that I was innocent of the charges and I told him to contact the bus aides – Sherry Hagerman, Susan Coates, Angel Powell, and Edward Soto – that worked on

my bus.

7. I also informed Jack that it would be impossible for me to commit this crime because I was working two jobs during this period. I outlined the following schedule for Jack Bradley:

a. On a typical day, I would pick up and drop off the children attending the morning session of Head Start at the Nativity school located at 418 West 15th street, Lorain, Ohio by 8:30 am. I would then bring a few children to the Head Start City Center school located.

b. After dropping off all of the children on my bus, I would pick up the Meals on Wheels van from the Community Action program, located at 34th and Broadway, Lorain, Ohio.

c. I would then pick up the meals from the Jesse Williams Home in Elyria, Ohio located at Elyria Avenue then deliver the meals to HARR (senior home) and city center (and then homebound seniors and to other individuals at other locations. I then return the Meals on Wheels van to the Community Action program.

d. After completing my Meals on Wheels deliveries, I would return to the School Bus Services ("SBS") garage, located on Colorado Avenue to pick up my bus and then return to the Nativity Head Start school by approximately 11:30 to pick up the children attending the morning session of Head Start.

e. From 12:00 pm to 1:30 pm, I would drive home the children attending the morning session of Head Start and pick up the children attending the afternoon session of Head Start. I would drop off the children attending the afternoon session of Head Start at the Nativity school by 1:30 pm.

f. After returning the Head Start bus, I drove to the YMCA, located at 1121 Tower Blvd., Lorain, Ohio and picked up the YMCA van. From 2:00 pm to 4:00 pm approximately, I picked up children from various elementary schools including Emerson, Larkmoor, and Washington Schools, and dropped them off at the YMCA.

g. I then returned to the Nativity school by 4:30 pm to pick up the children attending the afternoon session of Head Start. From 4:30 pm to 6:00 pm, I would drive these children home.

h. I informed Jack Bradley that I had worked all of these jobs on May 7, 1993.

8. Between my meeting with Jack Bradley in May 1993 and my trial, I thought that my attorney was investigating all aspects of my case and preparing for trial.

9. I did not learn until recently that there were attendance records demonstrating that all of the alleged victims were present at school on May 7, 1993.

10. I was also unaware that there was a line up video showing that all of the alleged victims were unable to identify Joseph Allen.

11. I only recently learned that Detective Tom Cantu knew I was innocent and, yet, was reassigned from my case.

12. I also only recently learned that Dr. Amy C. Richardson had concerns about the children giving inaccurate trial testimony due to suggestive questioning by the police.

13. It was not until after I was released from prison that I learned that my daughter, Amber Smith, had discussed my case with Lorain Police Chief Cel Rivera, and that she had recorded these conversations. Neither Amber nor Chief Rivera ever mentioned these conversations to me while I was still incarcerated.

14. I am innocent of the charges for which I was convicted and have spent the last 14 and a half years of my life in prison for a crime I did not commit.

I, being duly sworn, hereby state that the foregoing facts are true and correct and are stated upon personal knowledge.

Nancy Smith

Nancy Smith

Sworn to before me this
19 day of March, 2012

Notary Public 1-28-2016

THE CLEVELAND CLINIC FOUNDATION

Kathleen M. Quinn, M.D.
Adult, Child, Forensic Psychiatry / P57
Office: 216/444-5950
Fax: 216/444-9054

September 1, 1998

Mr. Daniel A. Jaffee
Squires, Sanders & Dempsey
4900 Key Tower
127 Public Square
Cleveland, OH 44114-1304

RE: Nikki Zelek, et al, v. Lorain Head Start, et al
Lorain County, Case No. 96CV116729

Nikki Zelek, now 9, was seen for a psychiatric evaluation to address possible psychic damages from an alleged sexual maltreatment at the Lorain Head Start. The other focus of the evaluation was an assessment of the quality of the investigation in light of what is now known about the issues surrounding interviewing of young children about forensically significant events.

Nikki was interviewed alone on July 28, 1998 for approximately one hour. Her mother, Ms. (Grondin) Perazzola, was interviewed for one hour. Both interviews were videotaped, and Ms. Perazzola was accompanied by her attorney. Nikki and her mother were informed that the videotaping was occurring, and that the interviews were not confidential.

Documents reviewed:

1. 5/11/93 interview with Nikki Zelek, Exhibit E
2. 5/13/93 interview with Nikki Zelek, Exhibit F
3. 5/31/93 interview with Nikki Zelek, Exhibit G
4. Examination of Nikki Zelek, pp 756-824
5. 5/7/93 Emergency Care Center report, Clive Jenkins, M.D., with nursing notes

5. 5/7/93 Emergency Care Center report, Clive Jenkins, M.D., with nursing notes
6. 5/12/93 University Hospitals of Cleveland
7. Care Clinic documents, including intake (5/13/93) and appointment of 5/18/93
8. Deposition of Dr. Amy Richardson, 7/1/98
9. Center for Children and Youth Services (CCYS) letter dated 5/22/97
10. 4/29/98 letter from Sharon Borer, M.A., LISW
11. CCYS records
12. Deposition of Nikki Zelek, 7/2/98
13. Deposition of Margaret Perazzola, 12/23/97
14. Police records of investigation
15. Office notes of Dr. Sun
16. Office notes of Dr. Seo

Chronology of Allegation and Investigation

Ms. Perazzola indicates that on 5/7/93 at approximately 5:15 p.m., Nikki came off her Head Start bus. She appeared tired. Her mother asked her how was school. Nikki is reported to have replied that she didn't go to school. Lorain Community Hospital documents indicate an account to her mother that her bus driver took her to her house before Head Start, and the bus driver's boyfriend " 'peed in my face. He put his mouth and kissed me between my legs, then he put a stick in there. It hurt...' " Nikki also indicated peeing in her pants (000002) in the account given at approximately 10:10 p.m. at Lorain County Community Hospital (LCCH). From the bus pickup to their presentation that night at the hospital, Ms. Perazzola describes alternate questioning and growing distress ("I lost it...I'm in a crazy state"). For example, Nikki's mother indicated in the 5/13/93 transcript that she had directly asked Nikki about playing the doctor game. When Nikki described the "stick" as a twig, Ms. Perazolla saw a leaf in Nikki's clothes and asked how it got there. Ms. Perazzola heard Dr. Jenkins exam as showing signs of molestation, with a ripped vagina.

The LCCH records do not indicate that Nikki was interviewed alone, or what portion of the documented initial account came from Nikki directly or was reported by adults with Nikki present. Nikki was noted to giggle at the genital exam, and told the doctor " 'to do it again' ". No cultures

were done. Clothing was retained by the police. No exploration was made of the bathing with a sibling or "some inappropriate behavior in the recent past" noted in Dr. Jenkins' report. Dr. Jenkins' report was unclear as to the nature of his physical findings. The police report dated 5/7/93 by Patrolmen Swartz and Garcia indicate that "When these officers attempted to ask Nikki questions, she repeatedly said that she did not remember parts of when her and Joseph played this 'doctor game'. Much of the information provided was related by Nurse Galindo and by Nikki's mother." Police records indicate that there was a 5/8/93 interview of Nikki with her mother, Margaret, but no transcript was available.

The first available interview transcript is dated 5/11/93, and includes two women (Sally Wright [Miyara] and mother) and Nikki. The interviewer quickly asks the girl to discuss "about the things that happened to you that you told your mom and the doctor and the police about." Nikki replies, "I don't remember." However, the interviewer does not accept this answer. "Oh, try to remember. See I know your (sic) a smart girl. Your (sic) memory is pretty good." The interviewer than begins to question the girl about who is on the bus. The woman interviewer draws attention to the tape by asking Nikki to sit "so we can continue to hear you on the tape." Again when Nikki says she doesn't remember, this time about what Nancy does on the bus, again the interviewer pushes on and repeats the question, telling Nikki she can't hear her "over there." With little apparent rapport and with a clear interviewer focus narrowed in on the bus, and "Nancy" the interviewer, introduces the sexually detailed dolls ("some real special dolls"). A body part survey ensues. Nikki says "yes" to the question, "and did anyone ever hurt your mouth?" and identifies "Joseph." Then Nikki says repeatedly, "I don't want to talk anymore." The interviewer again does not accept the girl's answer, "You don't like to talk? Oh, but you know what, I really like to talk, and I like to talk to little kids...Well, why don't you talk to the tape recorder..." The interviewer attempts to ask other questions about school, and Nikki persists in saying she wants to play. The interviewer attempts to use doll house play to return to her specific agenda. "Did Alecia (doll) goes (sic) on the bus with you to Nancy's?" Although there is no indication in this interview that Nikki has indicated she has gone to Nancy's, the interviewer is incorporating data from outside sources. Nikki, using fantasy play, says, "Pretend Nancy took off my hat." She continues with fantasy play, but the interviewer attempts to continue with investigatory questioning ("Did anybody ever kiss you?..."No.") Then woman #2 urges compliance to Nikki (.."Don't forget to answer the questions they ask you. Talk to them."...[Nikki] "I don't like them.") After a bathroom break the woman interviewer indicates,

"We need to go back to the dolls now, OK?" and Nikki acquiesces. Nikki identifies "titties," "butt," and "pee pee." She denies that anyone touched her tittles or pee pee. She says she gets her mother when she poops because she doesn't know how [to clean herself]. Nikki endorses that Antwan tickles her feet and touched her belly button. She also stated she saw Antuan's "weenee." The interviewer gave a multiple choice question to the "where" question ("Where was he? Was he at school or at your house or at his house?"); but then gives contradictory information ("Did you go over to his house?...No.") Nikki at first endorses "at his house." Nikki continues to talk of body parts and their functions. She remarks that "your girls are sexy." The investigator says, "Who says you girls are sexy?" personalizing the question rather than talking about the dolls as Nikki appeared to be. The woman interviewer asks if Nikki took off her panties, although Nikki has not indicated such actions spontaneously. Even when Nikki says "no," the interviewer persists in this line of questioning. Nikki is able to say she takes them off [in the bath]. Nikki then begins to say the dolls are naked in the bath tub. Nikki indicates the dolls are going to bed together. The interviewer then asks the leading question, "Did anybody ever put that weenee on you?" Nikki says "no." She does say she saw "mommy and daddy" in bed together, but no one else. She denies again seeing anybody's "weenee." The woman interviewer then indicates a need to talk to Nikki again "another day."

However, the tape resumes after an unspecified time. There is no indication of the interim questioning. In this second portion, Nikki is again with two women, and later a man identified as "Tom" (Detective Cantiu). The tape opens with Nikki saying "Joseph," with no indication of the question. Both women emphasize the tape recorder, with woman #2 saying [hold] "like a movie star." The first woman then jumps in with the question, 'Who peed on your head?" Nikki says Joseph. It remains unclear how the interview reached this point, and suggests an agenda to confirm the information from the earlier hospital work up. Detective Tom Cantiu described the interview as "Again Nikki gave Wright the same information that she gave to this officer. At the time of the interview Nikki was very hesitant to give any information and had to be coaxed by her mother, and at times by Sally Wright; but then at times agreed that Joseph had done various things to her, including pee on her, pee in a cup, and had her and other children drink it."

This second portion of this tape includes Nikki saying, "No, it sounded like you" (the interviewer) when asked did anybody else pee on her head. Nikki launches into saying Joseph was naked

with her going down the steps and naked in the kitchen. Her description jumped as she had him not being naked anymore in the dining room...'no, in the bedroom..." "He went in the kitchen to go to sleep."

At this point in the interview "Tom" enters and reminds Nikki he gave her a teddy bear the other day. The woman interviewer says, "She was telling us that Joseph peed on her head." (The interviewer had asked this question, and Nikki had said Joseph.) The woman interviewer goes on to where else he peed. ("My nose..my hair...my mouth"). The interviewer leads back to Nancy and says, "Where was Nancy when he was doing that?"

Nikki also continues to tell another account of "one...went to the...went to bed and one little sister went in with daddy." The interviewer attempts to lead Nikki back to her account about Joseph ("You need to tell me what else Joseph did to you"...[Nikki] "I know, but I need to tell you what this one does.") (Woman #2..."come on.") (Woman..."What else did Joseph do to you?"...So what else did Joseph do to you? Did Nancy do anything? What did Nancy do?") This questioning was repetitive, suggestive, and focused on the pursuit of only one of the stories presented by Nikki.

Nikki then went on to say, "When Nancy was rubbing my tummy when I peed on myself." The woman interviewer asks where, but goes on to give a multiple choice rather than an open-ended question. "Were you at your house or at school, or where were you?"

Woman #2 reinforces Nikki ("He's going home. He just wants to hear this story. Tell him. I'm excited, I'm happy. See?" The woman (#1) asks Nikki why she went to the hospital. When Nikki says "cause," the woman proceeds to add "cause why? He put a stick in you? What kind of stick?" Nikki says, "He goes ha, that's funny." Nikki is again reinforced for certain answers when she says "yes" to the question, "Did she see him put the stick inside you? Look at me." "Good for you" says the woman. The woman interviewer asks, "and what did Nancy do to you?" Nikki says, "Let me think" to this question and to the question, "Did Nancy tell you to do something to her?" Nikki also indicates towards the end of the interview the rather implausible response that Joseph said stick it in his eye. The rest of her response is cut off by the woman interviewer asking about Nancy.

Analysis of this set of interviews indicates significant problems, including introduction of previous information into the questioning, both prematurely narrowing the focus of the interview and coercively asking for information. The child is not interviewed alone, and little to no time is spent establishing rapport or permitting the child to give a spontaneous, free recall account. Questions are leading, often repetitive, and specifically focused. No attempt is made to separate play and fantasy material from the investigatory questioning. No follow-up questions clarify Nikki's remarks about "mommy and daddy" in the bath or bed. No presentation of the interim exchange is available prior to the second portion of the tape which both emphasizes the taping and incorporates leading questions in pursuit of the agenda of confirming the earlier hospital work up. No exploration is made of Nikki's statements about "one little sister went in with Daddy." Nikki is verbally reinforced for telling one of the stories only.

Nikki was brought by mother to University Hospitals 5/12/93 for "blood tests" (cultures) and re-examined physically. No apparent investigatory interviewing was done. However, mother's account was taken, both on intake and by social worker. No indication is made re Nikki's presence during these accounts.

On 5/13/93, Nikki and Nikki's mother were interviewed by a man. The initial part of the interview was the woman (Nikki's mother) recounting her observations prior to the allegations, as well as the May 7 disclosure. Nikki is present throughout this portion of the interview. Her mother's direct account is more detailed and elaborated than any direct statement of Nikki's . It also appears inconsistent with Nikki's statements in the 5/11/93 transcript in which she denies anyone touched her "pee pee." Nikki's mother also indicates she asked Nikki to show her what was done to her. Nikki's mother indicated, "I smelt her, you know, and it didn't smell like her normal vagina like a little girl, smelt like fish." This conversation was continuing in front of Nikki. The first question directed at Nikki included, "What does Nancy do to you?" without an attempt to have the child respond to non-leading questions. The man pursued his questioning by quickly moving from questions about Nancy to Joseph. "How about now Joseph. What did Joseph do to you...want to tell me again what he did to you?...What did he do you say?...Did he play games with you that you play doctors?" Nikki's mother joined in, coaxing Nikki to talk, "Tell him what he did. What you told mommy and the nurses and you told grandma." After more coaxing the man shows Nikki a picture and asks where Joseph touched her. The questions by the male investigator are highly

leading (e.g., "...Did he ever put his face down there by you?...Did he ever put his tongue down there?") The male investigator used data from both inside and outside the interview in a leading and contaminatinatory manner (e.g., 'You told the nurses that he peed on you too. Did he? Did he ever do that to you?") Nikki's mother would answer questions for her or supply parts of the account (e.g., "Didn't you tell me it was wrapped in a towel and you seen a little hole? I forget that part." Nikki – "I don't remember that." The man then asked twice about this, and by the second time, Nikki was endorsing the statement, indicating her vulnerability to repetitive, leading questions (Man: "What did he wrap in a towel, honey?" Nikki: 'I forgot that." Man: "Did he wrap a pee pee in a towel?" Nikki: "Yeah.") Nikki also adds that "You know, Angel touched me right here. Right by my leg," but this remark is not explored by the adults. The adults then go on to discuss Nikki's physical exam and her reaction to it at LCCH in graphic detail.

Nikki's mother indicates toward the end of this interview that she had questioned Nikki for three hours, raising the issue of parental contamination prior to her first professional contact.

On May 13 1993, Sally Miyara (Wright) of Lorain County Children Services called in a referral to the Care Clinic of University Hospitals. Data was given at the time of the intake not earlier documented in the interview transcripts, including child allegedly disclosing to Ms. Miyara that Joseph put a stick in her which gave her splinters which he tried to get out with a toothbrush. Nikki was subsequently physically examined May 18, 1993. Dr. Richardson's letter of May 24, 1993 summarizes her findings of the allegations, the lack of clarity about Dr. Jenkins' findings, and her mother's endorsement of a wide variety of other non-specific and specific sexualized behaviors. She also notes Nikki was a twin, and the other twin did not survive. The physical exam noted a scar from the surface of the hymen into the fossa navicularis. The social work family assessment by Sandra Kelly, LISW, included an individual interview for Nikki's mother who detailed her distress after reading the Lorain Community Hospital report, and her own need to go to the emergency ward and be put on Valium. Nikki's mother described her upset about the handling of the allegation by the Lorain Police Department. Ms. Kelly cautioned Nikki's mother against further questioning of her daughter, "as it might contaminate the investigation..."

On May 26, 1993, social work notes indicate that Dale Perazzola, at the time Nikki's mother's fiance, asked for a copy of the medical report to share with the media. A decision was made by

the Care Clinic team to not release the report due to concerns that media coverage "could contaminate or impede the police investigation, and that it might have negative impact on patient as well."

At a May 28, 1993 interview, Nikki's mother indicated that a media report initiated by her fiancé had taken place. She also indicated that she had gone to two other mothers–the mother of Antwan and Amanda–and told them "my child has been molested" by Head Start driver and friend, Joseph. "Can you have your child checked to see if they were molested?" She also said to those mothers that their children were present when her daughter was molested, and they tied their hands and taped their mouths, too. "We had a discussion with mother about how her actions can contaminate investigation and might make it more difficult to prosecute if it comes to that." "Early in meeting she had expressed amazement that Detective Cantiu had actually threatened to have her arrested if she continues to interfere with investigation...By the end of meeting seemed to understand that she could be doing more harm than good if she continued on her present course; however, I am not certain this will change anything in the family's approach."

By May 25, 1993, an appointment had occurred at CCYS, a community counseling service. Client plan dated June 8, 1993 indicates difficulty separating from mother. Documents are unclear about what of the allegations discussed during sessions is directly from child (000139-000140). The initial diagnosis was adjustment disorder with anxious mood (severe). Her therapist, Sharon Borer, LISW, indicated Nikki "will do well in tx [treatment]–integrate s/a [sexual abuse] as only part of life experience."

A May 31, 1993 interview included Nikki, Nikki's mother, and step-dad. As noted in previous interviews, the adults did most of the talking with evident parent pressure, cross contamination, apparent continuing questioning by parental figures outside of formal interviews, and a pursuit to confirm statements made by the adults to the police.

Step-dad:	Just tell him what you told me. What's on the wall?
Nikki:	Paint.
Man:	Paint. What color is the paint?
Nikki:	Pink.

Man:	Pink paint.
Nikki:	Yeah.
Man:	Are you sure about that?
Nikki:	Yeah.

Nikki is then asked to describe the color of various items.

Man:	...What color is this right her on mommy's shirt?
Nikki:	Black.
Man:	OK. Do you know what color their wall was?
Nikki:	Pink. Black.
Man:	Pink with black?
Nikki:	Yeah.

In this interview the speaker ("man") who appears to be Cantiu acknowledges significant problems in the investigation. "Every kids (sic) pointed out different houses and to be truthful I went to the different houses...and that's the problem with this case there's a lot of inconsistency. And I've never had a case that has never followed a pattern."

Parental cross-contamination is also evident. Step-dad: "See the black man told me the son, the little black boy, he told me that his son said he lied to you, that he didn't tell you the truth cause he didn't want to go to the house." In Detective Cantiu's written statement about this interview he indicated that "During this interview it was now learned that she gave a different description of the alleged perpetrator "Joseph." According to Grondin (mother) when they watched a newscast on the case, Nikki heard the voice of Ellis, a white man who lived in one of the houses, talking to the newsman and stated that "Joseph" sounded just like him and now stated that Joseph was probably a White male and used black makeup to look like a black male, and when applying the makeup probably missed some spots on his face, showing the white spots visible. Earlier documents describe "Joseph" as black male (see 5/7/93 police report).

On June 6, 1993, Nikki and her mother were taken in an unmarked police vehicle to see if Nikki could identify a residence where the allegations took place. Nikki pointed to a peach house and

said that was one of the houses where she had been, but could not identify another home of a suspect identified by Antuan Powell. A similar trip took place on the same day with Amanda Winebrener who also identified the peach home, but also revealed that Nikki and Nikki's mother had driven Amanda by it. (During the May 13, 1993 interview, Nikki's mother had said Nancy's house was white, and Nikki repeated this.) The data is consistent with both peer pressure and contamination entering the investigation.

On June 16, 1993, Detective Andiyar and Captain Rivera interviewed Margaret Grondin, Nikki's mother, about further statements by Nikki concerning the allegations. Nikki was not re-interviewed. Examples of continuing parental questioning are noted in this report, including the mother asking Nikki about wreaths she had given Nancy Smith. "In remembering this [about the wreaths], Grondin (mother) asked Nikki if she had seen the wreaths at Nancy (sic) house." Questioning also continued about "the stick," and although earlier Nikki had said it was from "outside" (5/11/93, p 29) the mother now indicated that Nikki related the stick had a ball on one end and water came out of it. No indication is made of either Nikki's earlier statement about the stick or the discussion between adults in Nikki's presence during the 5/31/93 interview about the same subject (speculation that "the stick" was a douche).

Nikki's mother also related during this interview that "she had talked to Amanda Winebrenner" and other disclosures were made. Again, no professional note was apparently taken of this continuing parental/community contamination.

Nikki is only interviewed without mother on July 14, 1993. Detective Andiyar and Mrs. Thornhill (LCCS) conducted this interview after identifying colors. Nikki was asked to talk about what she spoke with Sally (LCCS worker) about. The detective asked her to tell them about Nancy and Joseph, narrowing the topic of the interview. He also indicated "your mommy wants you to tell us" several times, and encouraged the girl to "help" the investigators as well as her peers by talking to them. Nikki denied Nancy took her anywhere else. The detective persisted "like to a house." Nikki – "no." The detective then admonished her, revealing a bias to confirm the allegations. "Now try to be serious. We're not playing. We're trying to get information from you, OK? Remember, your mom said answer our questions." Later in the interview Nikki says, "Joseph and Nancy" as someone who touched her private parts. Nikki does not give any spontaneous

elaboration. When asked if Joseph is white or black, she says black. By now, Nikki uses the term "squirt bottle." She denied seeing Joseph or Nancy do anything to each other. Nikki's story changes in response to questions indicating her vulnerability to leading, as well as whether or not she is describing an actual personal memory of an event.

Man:	Who took...where did this...where did Joseph and Nancy touch you at? Where? At a house or outside, where?
Nikki:	Inside the house.
Man:	Whose house?
Nikki:	Nancy's.
Man:	Nancy's or Joseph's?
Nikki:	Joseph's.
Man:	Joseph's house?
Nikki:	Uh huh. No, no, no.
Man:	Whose house?
Nikki:	Nancy's.
Man:	Are you sure?
Nikki:	Yeah.

She has now incorporated past mistaken beliefs and says the house is "peach." This was in response to the detective reverting to discussing Joseph's house as was consistent with the adults' suspicions.

Nikki is also shown pictures in this interview of a photo lineup, and to identify "Nancy." It is unclear how many photos were offered or its composition. Only late in the interview was Nikki asked if anyone else had touched her. The interview closed on her again being questioned about Joseph's house.

Nikki is seen in weekly counseling (5/93-11/94) and by 11/93 a group is begun for parents and children who have been victimized and includes other Head Start children and parents. No apparent consideration given to cross-contamination risks of such a group.

In the testimony at trial few of the problems in the investigation were apparent. Nikki testified to being taken to Joseph's house, although she indicated with a bus or car. Nikki used terms such as "vagina" and "penis" she had not used during the investigation the year before. She said, "French kiss," but could not say what it meant. Contrary to earlier statements she said Nancy touched her "on my vagina." Cross-examination attempted to indicate her suggestibility by asking leading questions about if Joseph and Nancy also took Nikki to a store and a restaurant which she endorsed.

Issue of Alleged Psychic Damages

Current functioning: Nikki, now 9, is a parochial school student with average grades, who in the past year has received no special services. She lives with her mother, her step-father, Dale, siblings Erica and Dino. Also in the household is Solida, 7, who Nikki's mother took in. Nikki describes this addition as a stressor – "She gets mean...I wished she was never here." Also in the home is Aunt Lydia, 25.

Nikki is on no medication. She is very involved with competitive ice skating. She is reported to have continuing separation anxiety symptoms, including frequent functional stomach aches, resulting in frequent trips to the school nurse and school absences. Nikki is reported to have resumed counseling with Sharon Borer, M.A., LISW, as of March, 1998. Symptoms reported at the resumption of counseling included recurrent nightmares, depression, avoiding friends, fear of leaving mother, some problems at school, and not eating, according to an April 29, 1998 letter to Ms. Borer.

Currently her mother reports Nikki having nightmares several times per week, with content about Nancy or Joseph. Her mother states Nikki does play with Ken and Barbie dolls with their clothes off. Her mother attributes Nikki's questions about physical development to the allegations. Nikki's mother reports an aunt catching Nikki pulling down a 3 year old cousin's underwear. Her mother questions why Nikki likes to be in small places such as the bathroom or a closet.

On interview, Nikki presented as a poised, attractive, well groomed girl, who related well. Nikki describes having friends, but is aware she sometimes gets "mad" if she perceives them as mean.

Nikki confirms earlier problems with reading (she was in Chapter 1 for remedial reading K-2), and describes some longstanding difficulty with concentration/distractibility (her brother, Dino, is diagnosed with attention deficit disorder and learning disability, and is on Ritalin). Nikki confirms she gets stomach aches when she gets scared. A fear she thinks of is Nancy and Joseph coming. She gets the stomach ache in school, and often calls home and leaves school. She also confirms having nightmares with themes about Nancy and Joseph or monsters. Nikki states she does not often think of Nancy or Joseph during the day unless she is being questioned about them. But at nighttime she does. Nikki denies other victimization.

Nikki describes a good mood with full emotional expression. She has had imaginary friends since age 3. They include Liz, age 4 or 5; Brian, 7; and Elizabeth, 2.

Nikki denies suicidal ideas or plan. She denies flashbacks. She does not display emotional numbing or withdrawal. Nikki described the courtroom testimony as stressful. She denies any current worries about her body. She does not have a sense of a foreshortened future.

Nikki appeared very tuned in to her mother's feeling and asked in the hallway after the interview if her mother was crying.

Relevant Past History

Nikki's history includes being one of a twinship. The other twin did not live. CCYS records note "Family says that Nikki is mom's favorite and spoiled. Mo. admits that Nikki is special b/c she is her youngest and mo. 'lost' her twin sister at birth." Developmental milestones were achieved within normal limits. According to CCYS records there was a history of domestic violence and a history of alcohol and marijuana abuse in the biological father. The history of visitation is vague, but has included overnights, but also has been complicated, according to Nikki, by pre-existing separation anxiety at age 3.

Her medical history includes a curling iron burn in the past. A May 22, 1996 documentation indicates (000152) "mo reports that Nikki has been complaining about being sore and having pain" (in genital area). This complaint was not apparently worked up or investigated.

Nikki had no previous mental health history. From May, 1993 to November, 1994, and again from January, 1996 to October, 1996 Nikki was seen by Ms. Borer at CCYS. Treatment notes indicate other stressors including relationship conflict between Margaret and Dale, and family dysfunction. (For example, phone log 6/19/96 – phone call to "fa" advised him that Nikki said she is afraid of being yelled at;" an undated note (000156) "spent weekend w g'm Zelek, told her that Dale beats her and the kids – that he tried to kill them w/his hunting knife." A separation was reported in a CCYS note shortly before treatment ended in June, 1996. Nikki was reported to have said, "I just want my mommy to myself."

OPINION:

The assessment of the Head Start allegations involving Nikki Zelek includes significant problems with parental contamination, failure to permit a spontaneous free-call narrative by the child, leading and overly specific questioning, repetitive questions, failure to separate fantasy from reality accounts, and failure to explore alternate hypotheses and psychosexual factors. Questioning illustrates the vulnerability of preschoolers to these improper techniques and the resulting negative impact on the reliability of the investigation. All the adults involved in the questioning failed to maintain an openness to alternate explanations of the complaints. The local professionals failed to appreciate the negative impact of the parental, community and media contamination, and added to it by permitting the involvement of family in the investigatory interviews.

Presently Nikki presents as a well-related child who has the capacity to participate in competitive ice skating. She has symptoms of a separation anxiety disorder with inappropriate and excessive anxiety related to separation from home and her mother, and which is expressed during the school year by functional bodily complaints, excessive distress when separated, and reluctance to remain in school due to these complaints. Nikki herself notes some pre-existing problems with separation surrounding visitation with her biological father. It is unclear if therapy has addressed the dynamics of the mother-daughter relationship which is likely to exacerbate these symptoms or other family stressors.

Kathleen M. Quinn, M.D.

THE CLEVELAND CLINIC FOUNDATION

Kathleen M. Quinn, M.D.
Adult, Child, Forensic Psychiatry / P57
Office: 216/444-5950
Fax: 216/444-9054

August 31, 1998

Mr. Daniel A. Jaffee
Squires, Sanders & Dempsey
4900 Key Tower
127 Public Square
Cleveland, OH 44114-1304

RE: Nikki Zelek, et al, v. Lorain Head Start, et al
Lorain County, Case No. 96CV116729

Amanda Winebrenner was seen August 4, 1998 for a psychiatric evaluation. This letter addresses Amanda's current functioning and possible psychic damages related to Head Start, and also addresses the quality of the 1993 investigation as it relates to the issues of interviewing children re forensically relevant events.

Amanda was interviewed alone. Her parents were also interviewed with their attorney. These interviews were videotaped and the lack of confidentiality explained.

Sources of Information

1. Exhibit K, interview of Amanda
2. Exhibit L, interview with Amanda, 7/15/93
3. Letter to Michael Czack from Elaine Porter, LISW
4. Trial testimony of Amanda
5. Deposition of Amanda, July 2, 1998

9500 Euclid Avenue, Cleveland, Ohio 44195

Chronology of Allegation

On May 25, 1993, Detective Tom Cantu and Ms. Tierro of Head Start spoke to 11 children, including Amanda and Antuan. The children were questioned if they rode the Head Start bus, and all indicated that they did, and the bus driver was Nancy. The children were questioned if the bus driver ever took them to her home, and most said no. The children were questioned if Nancy had ever touched them in a bad, hurtful, or unsettling way. "Each one stated that she has never touched them." The children were questioned if they know anyone named Joseph, and they all indicated that they did not.

Nikki Zelek and her mother, Marge, were visiting with Amanda Winebrenner and her mother, Katharine Hreha, when Margie told Kathy about the Head Start program and Nancy Smith (see police report 5/26/93, Patrolman Puza). Marge indicated Nikki kept bringing up Amanda's name. Kathy called for Amanda and questioned her. Amanda reportedly said something had happened with a needle at somebody's house. The police report indicates an allegation of Smith taking Amanda to a basement of a house to meet Joseph, a black male, who asked her to touch his penis. The report appears to be Ms. Hreha reporting to the police at Lorain Community Hospital where Amanda was taken.

A May 27, 1993 police report reviewed these events and indicated a police interview of Amanda with her mother. The police report of the May 27 interview with Amanda and her mother does not include a labeled transcript, so the quality of the questioning cannot be determined. She denied Joseph did anything. She had said Joseph was a white man to her mother, then a black man to Cantu. She is reported as saying Nancy put a knife to her neck, but didn't do anything else. Cantu then took Amanda and her mother to the area of the Head Start school. She pointed to one house, but her mother told her it was not that color. She then pointed to a peach/cream colored house where a Mr. Ellis, a white male, resided.

At the beginning of an undated interview is a discussion held by Detective Cantu and Ms. Hreha about how Marge had spoken to them, how the detective believed something happened to Nikki, that the medical report from LCCH was negative, and the limitations of such exams. Detective

Cantu discusses taking Nancy to Cleveland to take a lie detector test. He also describes going to three different houses as part of the investigation. Amanda appears to be in the room throughout these discussions of both adult beliefs and their pursuit to confirm these beliefs.

No attempt is made to interview Amanda alone. Detective Cantu immediately jumps in. "OK. You saying that somebody's been touching you where there (sic) not suppose to be? Whose doing it, honey?" Amanda complies with the expectation of the sought for answers and says "Joseph and Nancy." However, she states Angel drives the school bus to Joseph's house which is inconsistent with the other children's allegations. "Only Nancy did one thing to me...she put a knife on my face." The adults then begin to discuss pressing charges. Ms. Hreha reported Marge "told me what happened to her daughter, and that I should get Amanda checked." The day before this interview Amanda and Ms. Hreha went looking for the house. Cantu returns to talking about the status of the investigation and the variety of accounts he is hearing from various children. Ms. Hreha and Cantu continue to talk over Amanda about what may or may not have been said.

Cantu:	Did you ever have to touch a man on his privates? Honey? No?
Woman:	No, she said Nancy's chest.

Fundamental investigatory techniques are not evident, such as maintaining a professional neutrality, separate interviewing of a possible victim, inviting an open-ended narrative, and accepting the child's answers. A significant opportunity was missed at the time of the school group interview to separately interview the children on a neutral site early in the investigation and before the documented community contamination had begun to spread with specific content of the allegations. Questions asked aim at confirming these allegations and do not explore alternative hypotheses.

On June 16 another residence search takes place. Amanda and her father are taken, and Amanda again identified the peach home at 1763 Oakdale Avenue. However, Amanda also said she knew this because she and Nikki "the other day saw the house when Nikki's mother drove us by it." After driving by a second home (Richard Jones') Amanda could not identify that residence.

On June 17 a photo lineup took place. Amanda said Joseph was not in the lineup (Richard Jones

was in this lineup).

On July 15, 1993 Detective Andujar and Mrs. Thornhill of Children's Services met with Amanda and her mother. Off the tape she is asked to identify colors. With the apparent arrival of Detective Andujar he began to ask her about where she went to school and who drove her bus. Amanda says she doesn't know the person's name. She is asked if the bus driver took her to a house. Amanda says "Joseph's." Amanda says it was Angel who took her there. The detective shows Amanda pictures of bus drivers, starting with Nancy. The detective then appears to show her another group of photos and then the bus drivers.



Man:	Which one of those two took you to that house?
Amanda:	This one.
Man:	That one? Are you sure? OK. So you're saying Angel's the one who took you over to Joseph's house, or was it Nancy?
Amanda:	Angel.

This is another example of disconfirming the child's answer and attempting to confirm the adults' beliefs about the case. Amanda says she forgot what happened at Joseph's house several times. The adults do not accept this answer and persist.

Woman:	I don't think you forgot. I think you don't want to talk about it. Is that true?
Man:	Everyone has been talking about it. They're helping us out.
Woman:	And everybody feels like you do.
Man:	They feel yucky. But they tell us what's going on. What happened.

A clear expectation is expressed by the adults. Amanda finally produced something by saying she played "Bozo the clown," but said she forgot how to play. She was directly asked if she played "doctor" and said she and Nikki played doctor and nurse. the detective pursued this by leading "uh huh. And what would Antuan do? Would Nancy and Joseph play doctor too?" These ideas are from the interviewers, and the child is asked to respond to questions which can be done so by "yes" or "no".

A body survey was done, and then Amanda was asked if anybody ever hurt or touched her private parts. She replied "Nancy." She said her clothes were on in response to a multiple choice question, and circled the vaginal area as what Nancy had touched her with. She denied Joseph had her touch him, but said Joseph touched Nikki. She identified Joseph as white. Later in the interview Detective Andujar says, "You told me last time that he wore makeup." He then asked if it was red, blue, black, or other color in another example of multiple choice questions. Amanda says black.

Man: It was black makeup. How did he have it on his face? Was it all over his face or all over his body or what?

Amanda: All over his body or his face.

Unfortunately the adult questions appear to shape the child's answer and miss the opportunity to have the child give her own narrative. Amanda goes on to say she was at the place once. Amanda says the house was white and persists in saying Angel was there too. She was asked leading questions about cookies and milk, but denied getting such a thing. She was asked about seeing Joseph pee, but appeared to deny this. She was then asked about a stick (or plastic stick). Again the adults have a scenario they are attempting to confirm. Amanda has a different account of her initial disclosure.

Woman: OK. Did you tell your mom what happened?

Amanda: Yeah. The night when Nikki comed (sic) over then I told Nikki's mom what happened, then my mom...what happened.

The adults fail to appreciate or explore the degree of contamination this remark suggests and ignore it, moving back to their agenda.

Man: And it was Nancy that took you there, and Angel was there too, or was it just Nancy?

Amanda continues to say both women were there.

The Childrens Services letter of July 21, 1993 by Teresa Thornhill does not address an awareness of the contamination issues or the leading nature of the interview, but indicates that Amanda "had a difficult time talking about her own abuse." The worker does not appear to appreciate that suspending judgement in unsubstantiated cases aids in minimizing leading or suggestive investigatory techniques.

From July 29 1993 to August 17, 1995 Amanda was seen in counseling alone, with her mother, or with both parents for a total of 36 visits. The focus of this counseling was Amanda as a molest victim. "The clinical diagnosis given to Amanda was 995.5 and V61.21, which are sexual abuse of a child with the clinical focus of the counseling on the child regarding the molest. Amanda did not verbalize feelings well. She would 'clam up.' She did not deny the abuse, but also often refused to talk about it." No indication is made that the counseling addressed Amanda's complex family situation as noted in the other sections of this report. Amanda constructed a "trauma book" which although constructed for therapeutic purposes, was also used as a memory aid. Her primary behavioral symptom was withdrawal, which is a non-specific symptom.

Approximately a year after the initial disclosure, Amanda was reported to be re-molested by her Tuesday night church teacher, according to Ms. Elaine Porter's treatment summer letter (000001-000005). The family now denies knowledge of this incident.

On July 30, 1993 Detective Andujar took Amanda for a walk in the Head Start area. Amanda identified a house on Oakdale where she said Nancy took her, and added that Eddie and Angel were also there. When questioned if this was the right house, she looked down the street and Amanda then stated she did not remember the house. She said it was white, but did not know which one it was. Amanda appeared to experience this as many of her other encounters as a demand for information. When her information was challenged or ignored because it did not conform to adult expectations, her usual approach was to stop giving answers.

Current History

Amanda, 10, resides with her mother, Katharine Hreha, sole custodian, her full brother, Eric, 5, and Melissa, 15, half-sister. The Sunday before her interview Katherine had separated from her

boyfriend, Mark, of 1 ½ years who she described as having a problem with alcohol. Amanda has regular visitation with her father, Robert. His household included RaDonna, and regular visits from his other children, Chastity, 15, Robert Jr., 13, and Tristan, 11. Other individuals who have been in this home in the recent past include RaDonna's son, and a daughter, Lisa, with her child, 3.

Amanda is on no medications. She resumed contact with Ms. Porter in May, 1998 due to her impending deposition. The focus of this contact was "to remember." She uses the trauma book constructed with Ms. Porter to remember. The latest addition to this book has been pictures associated with her deposition.

Her parents report Amanda was doing fine prior to learning of the scheduled deposition. She had no sleep disturbance, no nightmares, no re-enactment behaviors, and no sexualized behaviors. Amanda was angry when she learned of the deposition because she didn't want to do it or remember, according to her parents.

Amanda and her parents report her having a good summer, with a two-week vacation at her father's. There are no access problems described by the parents.

She is scheduled to enter 5th grade in the fall in mainstream classes. She will move schools due to her mother's moving. Her peer relationships are described as good.

Past History

Amanda is the oldest of two children born to the 10-year relationship between Katherine Hreha and Robert Winebrenner. They have no longer been a couple for approximately two years. They describe a conflicted relationship that included a separation when Amanda was a baby, and an approximately 1 ½ year separation after the Head Start disclosure..

Amanda was born after a full-term, uncomplicated pregnancy. No milestone delays are endorsed. She began Head Start at age 3, and experienced no separation problems. Her alternate caretaker during this period was her maternal grandmother.

Medically, Amanda has enjoyed good health, with an occasional headache. She has had no hospitalizations. She has never taken psychotropic medications. Prior to seeing Ms. Porter, she *had never had counseling.*

Amanda has had many moves educationally. She began kindergarten at Lakeview, and was described by her mother as "fine." In 1st grade her parents reconciled and they moved again. She was described as slower than others, especially in reading and math. She moved again after her parents separated for a final time when she was in 3rd grade. In 1st and 2nd grades she rode a bus. Although she was described as not liking it, she did it. She moved again at the beginning of 4th grade. Her parents describe no educational concerns about her 4th grade performance where she got A's, B's and C's. She did fine, her parents report on her proficiencies. Antuan was in her class.

Interview

Amanda, now 10, presented as an attractive, well-groomed, well-related child, who spoke softly. She reported she was "glad" about the recent breakup between her mother and Mark. "I didn't like him." Amanda described Mark as jealous of Katherine's relationship with Amanda. She described they were also moving because their current landlord walked around with "hardly no clothes." She described her summer as "good." She was looking forward to the next school change since she was returning to Clearview where she had friends. She described her time at her father's as positive.

She denied current symptoms. She denied a sleep disturbance or nightmares. She said she didn't think about Head Start except if court issues were active.

She looks at the "trauma book" about twice a month when she is "bored." Las night her mother brought over new pictures to add to the book.

Amanda describes her mood as good. She denies significant fears. She has no evidence of psychotic symptoms or of obsessive or compulsive behaviors. She has no self-harm thoughts or behaviors. She denies triggers or flashbacks related to the allegations, although she was "mad" when some of Nancy's relatives came by her house.

She denies any other victimizations. She denies over-stimulating psychosocial events except as noted above.

Amanda was most expressive about her parents' relationship problems. She recalled a verbal fight between her mother and father when the couple separated again that made her "sad." She describes struggling with reading in school and some subjects such as social studies. "I don't understand it." She denies concentration or attention problems.

Amanda reports her only recollection of the allegations are going to Joseph's house once. Amanda has no recall of her parents' separation in 1993, or of the disclosure she made in 1993.

Amanda reports a longstanding wish to see her parents get back together. Amanda believes her father has it planned, and that her father and RaDonna may be breaking up soon. Again, this is the topic that has the most affect attached to it.

Amanda denies a family history of domestic violence, but she has concerns about her mother's level of drinking.

She had the support of her maternal grandparents, and enjoys doing art and woodworking projects with her grandfather.

OPINION:

Amanda Winebrenner, 10, presents as a pleasant, well-related child, who does not endorse any current symptoms. Her history is complicated by a complex family history and multiple moves and changes of school. She has had some longstanding difficulty with some academic subjects, but very much enjoys drawing. The counseling Amanda received appears to nearly exclusively focus on the alleged molest, and did not address family or relationship issues. The issue that Amanda has considerable continuing affect about is her parents' separation.

The investigation about the allegations concerning Amanda began with peer contamination with the May 25, 1993 group interview and community contamination. Amanda stated Nikki's mother

first interviewed her and then Amanda's mother did.

Professional interviewing was characterized by the pursuit by adults to confirm their assumptions, challenging and disbelief of data not consistent with these assumptions, and a lack of professional neutrality. Questions were leading and specific, and often occurred after adult discussions of the allegations in front of Amanda. The use of the "trauma book" has made concrete the allegations. Professionals failed to appreciate the early and persistent contamination of these allegations.

Kathleen M. Quinn, M.D.

THE CLEVELAND CLINIC FOUNDATION

Kathleen M. Quinn, M.D.
Adult, Child, Forensic Psychiatry / P57
Office: 216/444-5950
Fax: 216/444-9054

September 1, 1998

Mr. Daniel A. Jaffee
Squires, Sanders & Dempsey
4900 Key Tower
127 Public Square
Cleveland, OH 44114-1304

RE: Nikki Zelek, et al., v. Lorain Head Start et al.
Lorain County
Case No. 96CV116729

Jonathan Gibson was seen August 4, 1998 for a psychiatric assessment concerning his current functioning and to address the quality of the earlier 1993 investigation in light of what is known about the assessment of preschoolers concerning forensically significant events. His biological parents were also interviewed with their attorney. Both interviews were videotaped and all participants were told the assessment was not confidential.

Sources of Information:

1. July 7, 1993 interview transcript with Jonathan Gibson
2. Trial testimony of Jonathan Gibson
3. July 2, 1998 deposition of Jonathan Gibson
4. St. Joseph Hospital records
5. Dr. Seo's office notes
6. June 6, 1997 letter from CCYS to Michael Czack
7. Community Mental Health Services of Muskegon County intakes for 9/26/97 and 1/23/98
8. CCYS' records

Chronology of Allegation:

Jonathan's mother reports she had read the newspaper accounts of the Headstart allegation and knew Nancy, the bus driver, had been charged. She recalled Jonathan saying his "butt hurt" one month before and took him to the emergency room at Lorain Community Hospital on May 28, 1993, where she reported the patient "acting strangely and doing strange things sexually. Father states that the child said that the man used a stick on him and took him to a house and he got to play Nintendo there." The genitalia exam was reported as showing no evidence of trauma. A rectal chlamydia antigen test was reported as positive. Ms. Gibson states Dr. Seo, Jonathan's pediatrician, called her to report Jonathan had chlamydia, although the antigen test is inexact and has no medicolegal value (see Richardson letter 6/28/93 re: Antuan Powell).

On May 31, 1993, Detective Cantu met with Jonathan and his mother, Katherine. She related the above history, although in this report she said her son didn't have any problems, but had complained of his butt having a burning sensation off and on the past winter. She also related having seen the media reports about the investigation. "These officers questioned Jonathan about his bus driver and he stated that her name was Nancy; He was questioned if Nancy ever did anything to him or if she had ever touched him or touched his penis...Jonathan stated that she had never done anything to him and had never touched him in any way, and that she never touched his penis." Jonathan identified a white male as Nancy's boyfriend. Jonathan denied the boyfriend had ever touched him or did anything to him. He denied anyone at the school had ever touched his privates. He was also questioned about the stick allegation, and Jonathan said it didn't happen and no one put anything up his butt. No transcript of this interview is available. The questioning appears to have focused on specifics of the allegations.

"On June 5th the Gibsons were advised by the hospital that Jonathan tested positive for chlamydia." (see 6/18/93 police report)

On June 18th, 1993 Detective Andujar met with the Gibsons "to know if they have heard anything from Jonathan about his experience on the bus and with Nancy Smith." The Gibsons reported that after learning of the test results "both Mr. and Mrs. Gibson began to recall all the strange things Jonathan was doing." These included acting up on the bus, refusing to get on the bus, and pulling away from Nancy Smith. On May 3rd Mrs. Gibson reported walking into Jonathan's bedroom and finding Jonathan and his younger stepbrother with no pants on, humping on the bed. Jonathan was also reported to say to Mrs. Gibson, while pointing at his groin area, "Nancy got one like you." After the media exposure, the Gibsons questioned Jonathan, who said Nancy's boyfriend bit him in the groin. At an unspecified time, Jonathan was over his paternal aunt's home and was reported to be humping another kid.

On June 18th, Detective Andujar did not question Jonathan.

On June 30th, Mrs. Gibson was contacted by Detective Andujar, who reported that she had seen Jonathan playing with one of his dolls and was wrapping tape around the doll's mouth. She asked him why and he was reported by her as saying, "Nancy and her boyfriend used to put tape over my mouth."

On July 7th, Jonathan and his parents came to the station to be interviewed by Detective Andujar and Mrs. Thornhill of Children's Services. Jonathan was interviewed without a parent. The questions quickly began to ask about Headstart. Jonathan said the bus did not go anywhere else. He appeared to motion no to questions if anyone had hurt or touched any of his private parts. The interviewer challenged him saying "are you sure?" and the questions were repeated. Then the detective asked Jonathan, "Tell me what you told your mother...what did you tell your mom about someone touching you. Or about a stick?..What about a stick? What happened with a stick?" The questions pressed on with the detective exhorting Jonathan "You can tell me, I'm your friend." Jonathan continued to give no data, so the questions changed to if there was a man on the bus. Now he is described as black by Jonathan. When asked the name, Jonathan says "Angel," but the male interviewer says "No, No, the man's name. What was the man's name?" Jonathan then resays Nancy's boyfriend. He says "no" to if Nancy and her boyfriend took him anywhere. When the male interviewer says "No?, Jonathan then says "To a jail." The questions keep being asked "He took you somewhere?" and then Jonathan continues to not endorse the touching questions. He is then asked about the doll and the tape, but denies this happened to him. He is

also shown pictures and questioned. The interviewer uses the name Joseph first. As Jonathan frustrates the interviewer, and he tries to leave, they began more leading and specific questions.

Man: "Wait. Wait. Who took you to this house? Who took you? Were you at Joe's house? Were you at Joseph's house? Or Nancy's boyfriend's house?"

Later,

Interviewer: "Jonathan, Jonathan did anyone tell you not to talk? How come you don't want to talk to us?"

The second side of this tape (Exhibit B) gives the mother's account of the type of questioning that had already occurred with Jonathan. "...then the last time he put tape over the doll's mouth, him and Joshua did and said who did that to you? Did somebody do that to you? Why are you doing that? He said yeah." His mother reports his affirmation or statements "all after I started asking questions." He is noted by his mother and the interviewers to have a short attention span, but they appear to fully attribute this to when the subject of Joseph is brought up. It appears that Joseph is already in counseling at this time, which was initiated the week before. His mother says "I don't know how to get it out of him...He's not very talkative, you know. You have to drag things out of him." The detective shares with the mother that "Dr. Richardson said the test {chlamydia antigen] is a real bad test." Jonathan had already apparently been prescribed medication, so further testing would not be helpful. The mother discusses how Jonathan appears to endorse houses indescriminantly. "That's when we would be driving down the street and he would go 'Nancy lives around here somewhere,' or 'you know Joseph's house, Joe's house is around here somewhere.' But he doesn't know, you...he just must probably think a lot of those houses look the same."

Although the conclusion of the police report is "[i] t appears that something did happened (sic) to Jonathan by her (sic) reaction to some of the questions and the manner he would change the subject when Nancy and her boyfriend were brought up," no alternate hypotheses such as the possibility of misattribution of symptoms and leading questions in a boy with a low attention span appeared to have been considered. The lack of validity of the chlamydia antigen test was discussed, but this concept did not appear to slow the adults' assumption that Jonathan was a victim. The lack of the boy's ability to name colors, as noted in the July 21, 1993 letter by Ms. Thornhill, failed to raise the question if Jonathan also had an intellectual deficit which would need to be considered in the interviewing approach and the assessment of his response, as well as possible increased vulnerability to suggestions. Ms. Thornhill's letter confirms that Jonathan had begun to be seen at CCYS by Barbara Feldman.

On July 30th, Detective Andujar took Jonathan for a walk in the vicinity of Head Start so he could remember where he was taken by Nancy. This time he identified Nancy's boyfriend as a white man. No comment is made about this inconsistency in reporting.

At the November 8, 1993 review with the children of items found in Joseph Allen's house, Jonathan is reported to have volunteered that he saw a Batman sheet. No earlier interview material indicates Jonathan had stated this. No indication is made of how or if the child witnesses interviewed that day were kept completely separate. He also said he remembered a mask, but no details were documented by him prior to his being shown the mask found in Mr. Allen's home.

On November 5, 1993, Mrs. Gibson related that after seeing Mr. Allen's address published in the newspapers she drove Jonathan past the complex. She states she asked Jonathan if he knew anyone who lived there. She says that Jonathan said "Nancy's boyfriend did." She asked who that was and he was reported to say "Joseph." On the next day Detective Carpentiere took Joseph to this same complex. He said "Joe" lived there. Jon tried to open one of the doors "so Joe would let me in." The officers attempted to question him about the inside of the house, but they were unable to get a response. This example is notable for the parental contamination by the initial drive-by with questioning and the lack of traumatic-like response by the boy on the second trip, as well as the discrepancy of the officers' observations of Jonathan's productions compared to those reported by his parent.

Current Functioning:

Jonathan is the youngest of two children of Katherine Gibson and Mackie Gibson, who married in 1982, but who have been a couple since Katherine was age 14. The parents separated in June, 1996 due to severe conflict, including a police call in August 1995, when police were called and removed Mr. Gibson from the home. Jonathan saw this. His father was subsequently hospitalized. Another police call occurred in 1996. Mrs. Gibson reports she got a restraining order. Their divorce was finalized in May 1998.

Jonathan is in the sole custody of his mother, who lives in Michigan with Tony, her boyfriend of two years, and their infant son, Antonio, one month. Mr. Gibson remarried three months ago and resides with his new wife, Renee, and her 5 daughters, raging from ages 2½ to 19. When interviewed, Jonathan was staying with his father for his summer holiday.

Jonathan takes Ritalin and Tenex, both medications for attention deficit hyperactivity disorder. A psychological evaluation dated 1/23/97 notes a Full Scale IQ of 67, placing Jonathan in the mild mental retardation range.

Jonathan is to enter the fourth grade in the Fall of 1998. His mother reports he attended mainstream classes while receiving special services in speech, as well as reading and writing. He has an individualized education plan which is to be revised this fall.

His parents report Jonathan has nightmares. His father noted they occurred approximately three times in June. He is fearful someone is out to get him and this is the content of the dreams.

In May 1998 he was reported to have been kissing and fondling a 6 year-old girl in the bushes.

Mr. Gibson reports a diagnosis of major depression and has been on psychiatric disability since 1994 or 1995. Mr. Gibson acknowledges that during his episodes of illness he would lose his temper and throw things, as well as leave the marital home. His medications have been reported to be Zoloft and Thorazine.

The Gibsons note that Jonathan became more bossy and controlling when court became active again in early 1998. They believe it was helpful for him to move to Michigan. He has wanted to avoid the areas where Joseph lived and was fearful when he saw Nancy's sister at a store.

His father reports that Jonathan says he wishes his father could move to Michigan and has asked him about the possibility of his parents reconciling.

Relevant Past History:

Jonathan's birth was described as complicated by a long labor and mild jaundice. Due to a speech delay, he was assessed at Lorain Community Hospital according to Ms. Gibson. There is a family history of a paternal cousin on Ritalin due to ADHD, as well as paternal relatives with a history of depression. Documents indicate Mrs. Gibson left Mr. Gibson as he was "extremely abusive" to her. Mrs. Gibson also reported to a Michigan social worker, Michael McLaughlin, that Jonathan had suffered "emotional abuse from his father's excessive name calling."

Documents indicate that by June 1993, Jonathan was seen at CCYS for counseling, with the focus being his alleged victimization. The initial notes of June 10, 1993 describe Jonathan as molested sexually by Head Start driver and only adds the word "allegedly" as a late entry. The worker represents that the child tested positive for a sexually transmitted disease, despite the medical history noted above. His presenting symptoms were reported as anger, nightmares, bedwetting, and fears of sleeping alone. He was treated by Barbara Feldman from June 29, 1993 to June 22, 1994. Modalities included a victim's group. A transfer of therapists occurred and the treatment continued until 9/30/96. Mother relocated to Michigan. A treatment was briefly resumed in October 1996 and closed in early 1997 due to failure of the client to return. Diagnoses were noted as adjustment disorder with mixed disturbance of emotions and conduct, chronic, ADHD, combined type, post-traumatic stress disorder, and learning disabled, not otherwise specified. Stressors reported were alleged sexual abuse, parental mental illness, and family violence.

In 1994 Mrs. Gibson reports Dr. Theresa Krishnan as diagnosing ADHD in Jonathan and prescribing medications. Per CCYS records, mother is convinced Jonathan was hyperactive before abuse. A Clonidine trial for sleep was not helpful, so Tenex was added to his Ritalin.

In September 1997 Mrs. Gibson brought Jonathan in for additional treatment to Community Mental Health Services of Muskegon County, Michigan. Her focus was "the extensive sexual abuse" he had experienced. She gave a history of ritualistic sexual abuse, which went on for approximately six months. Mrs. Gibson also gave Mr. Gibson's diagnosis as schizophrenia and that he might have terminal cancer. She described Mr. Gibson as spoiling Jonathan with the outcome that she finds it difficult to motivate Jonathan to do chores. She described Jonathan as having "occasional nightmares" at the time of intake. Mrs. Gibson also reported at the time of the alleged abuse Jonathan was aggressive to a foster child (cousin) in the home, who was ultimately relinquished from the Gibson's care. CCYS documents indicate this foster child's care was too disruptive on the family. The initial diagnosis made was of PTSD, although the report does not support the endorsement of symptoms to give this diagnosis. Jonathan briefly received services, but Mrs. Gibson terminated them due to her work schedule. A second intake occurred in January 1998 at the same agency. The chief concerns of the maltreatment and defiance in doing chores was noted. Mrs. Gibson did not report that Jonathan was classified as emotionally impaired and had an intellectual deficit to the evaluator.

"This worker is also not wholly convinced that Jonathan is in as much need of counseling as his mother may believe." No notation was made of Jonathan's ADHD as a diagnosis nor the likely diagnosis of oppositional defiant disorder, another disruptive disorder often associated with ADHD, a neurodevelopmental disorder.

Jonathan has a reported history of sexual behaviors dating from the Summer of 1993, when Jonathan, a cousin a year older and several younger children were found touching each other at his paternal aunt's house. Jonathan was blamed according to his parents, but the intellectual ability of the older child and the degree of adult supervision is not known. Such activities are reported as having occurred several times, the last in 1996.

Interview:

Jonathan presented as a concrete, simple boy with significant attention problems. When his interview began he had not had any afternoon Ritalin. He was very distractible and the interview was briefly interrupted to see if his parents have brought any medication. His mother gave him a 5 milligram pill of Ritalin and by 25-30 minutes there was an improvement in his capacity to focus on productive play.

Jonathan demonstrated significant intellectual impairment. He did not know the Michigan town he lived in, his address or telephone number, or how many toes are on his feet. His fund of knowledge was poor.

He now gives a rote account of an allegation which he says he knows about because he was told about it. He says his sleep is "fine," but with "a little trouble." He said he didn't know the content of his dreams.

His interview productions were sparse and limited. He recalls the conflict between his parents, which included screaming and made him sad. He denies other victimizations. His emotional expression was bland. He described his mood as "okay." He denied suicidal ideas or plans. There was no evidence of psychosis. He presented as very dependent on adults to whom he looks for answers due to his own limitations.

Opinion:

Jonathan Gibson is a boy with a longstanding history of developmental delay, an IQ in the range of mild mental retardation, and hyperactivity. He is receiving mediations for attention deficit hyperactivity disorder (ADHD). His interview demonstrates a clear benefit of his receiving Ritalin. ADHD is a disorder with symptoms of hyperactivity, inattention and impulsivity. Oppositional symptoms are common in this condition. Jonathan has also experienced some family dysfunction and parental mental illness.

The investigation of the allegation involving Jonathan included media exposure, parental questioning, and attribution of all behavioral symptoms to support the allegation. The weigh of the medical test of a positive chlamydia antigen test was misjudged and Jonathan was treated as though he had a documented active sexually transmitted disease. Treatment records then perpetuate this "fact."

No appreciation of Jonathan's delays, poor attention or increased dependency on adults guided the investigatory interviews. Professionals failed to appreciate major inconsistencies in the accounts or the significant difference in their interviews and the parental reports. When Jonathan was questioned by professionals, the questions were leading and highly specific. Parental contamination continued with the use of media data.

The history of sexual play with peers is incomplete since one o the other participants was older than Jonathan. Such activity should have been further explored to see if this was in actuality a victimization experience to Jonathan.

Sincerely,



Kathleen Quinn, M.D.

KQ:lp

THE CLEVELAND CLINIC FOUNDATION

Kathleen M. Quinn, M.D.
Adult, Child, Forensic Psychiatry / P57
Office: 216/444-5950
Fax: 216/444-9054

September 1, 1998

Mr. Daniel A. Jaffee
Squires, Sanders & Dempsey
4900 Key Tower
127 Public Square
Cleveland, OH 44114-1304

RE: Nikki Zelek, et al, v. Lorain Head Start, et al
Lorain County, Case No. 96CV116729

Antuan Powell, now 10, was interviewed alone for approximately one hour on July 28, 1998. His biological parents were seen on the same date for 30 minutes with their attorney. The interviews were videotaped, and participants were informed of the taping and that the sessions were not confidential.

Sources of Information

1. 6/15/93 interview with Antuan and Mr. Powell
2. 7/22/93 interview with Antuan Powell
3. CCYS records
4. 4/28/98 letter from Antone Feo
5. St. Joseph Hospital records, including 5/26/93
6. Trial testimony of Antuan Powell
7. Care Clinic records
8. Deposition of Antuan Powell July 2, 1998
9. Deposition of Frederick Powell November 26, 1997

9500 Euclid Avenue, Cleveland, Ohio 44195

10. Police records of investigation

Chronology of Disclosure

On May 25, 1993, Detective Tom Cantiu (along with Anne Marie Tierro, Head Start education handicap coordinator) met with 11 children, including Antuan Powell and Amanda Winebrenner. The children were questioned together about if they rode the Head Start bus "and stated that the bus driver's name was Nancy." "The children were questioned if the bus driver ever took them to her home, and were questioned if Nancy had ever touched them in a bad way or in any way which would hurt or upset them, and each one stated that she has never touched them. The children were questioned if they knew anyone named Joseph, and they all indicated that they did not. This group interviewing of potential victims immediately contaminated the investigation and pinpointed Nancy and Joseph as the target of the adults' investigation. Nikki's mother (Ms. Grondin) spoke with Ms. Gilchrist and informed her that Nikki had been sexually molested, and that she should have him checked. "According to Ms. Gilchrist, Mrs. Grondin did not disclose the specific details of what happened to her daughter, Nikki." However, Mr. Powell's deposition (p. 48) indicates they were told a name. However, Ms. Grondin reported that she had told the Powells that her child was molested, and told of the children being tied and their mouths taped (see May 28, 1993 interview).

Ms. Gilchrist called Mr. Powell. He came over and questioned Antuan. ("When I first talked to him, he was scared. Wouldn't tell me anything. He denied it." [Powell deposition, p. 51] Mr. Powell took Antuan's denials to have a special meaning–"and the first time he did that I knew that there was a problem...[p. 53]. Ms. Gilchrist then questioned Antuan when she returned home. At the time of the allegation Ms. Gilchrist stated the couple did not live together. The alternate caretaker was the maternal grandmother. Visits with the biological father were in the company of Ms. Gilchrist.

On May 26, 1993, Antuan, then 5, and his parents met with Detective Cantiu. Police learned that Nikki Zelek's mother had contacted the Powells and discussed allegations by Nikki and stated that their son was also a possible victim. Contrary to his purported denials the day before police records indicate an allegation by Antuan that Nancy comes to his class, wears a mask (black

person with grey hair), and takes him, Nikki, and Amanda out of class and out of school. (This account was contradictory to Nikki's statements [see Zelek report]). Nancy was alleged to have walked them to an unknown residence where Joseph took them to the basement. The allegations then detail disrobing, bumping, and touching (see police report of may 26, 1993 - Cantiu). "This officer then questioned Antuan if the information he gave was the truth, or if someone told him to say these things. Antuan stated that he was told to say this story, but then changed his story again, stating that what he said was true, and that these things did happen to him." No transcripts are available of the encounter, and the method of questioning and presence of parents is not known.

Detective Cantiu and the Powells drove to the Head Start area to the house mentioned as a possible site. No black male was found to reside there. Nothing in the house matched the description by either child, according to the police report.

On May 26, 1993, Antuan was taken to St. Joseph's to be examined. Hospital records indicate father's presentation of the allegations as fact. "Father states child was removed from Head Start playground 2 wk ago, taken to a man's house and sexually assaulted. States found out about it last night from another adult & confronted child. Child stated he was afraid to tell because they would kill him & family." Community contamination had already occurred (parent-to-parent conduct) and appears to have obscured many of the routine indications of reliability in such allegations because of the sharing of the content of allegations. There is no indication that Antuan is interviewed alone. Premature parental certainty is also evident. "Afer I found out about the incident I wanted to find somebody. I wanted to find somebody bad. (Powell depo p. 102) Mr. Powell went on to explain how he had followed one of the earliest suspects, Mr. Jones, illustrating the level of intensity of the pursuit, to prove the abuse. "All I know is it was somebody I wanted it to be, and it wasn't him." (p. 106)

As of 5/27/93 a counseling intake took place at Center for Children and Youth Services. It is not clear how the interview was conducted and if Antuan was interviewed alone. The complaint had changed to include sodomy and new behavioral complaints of being afraid to go to school, having nightmares, and sexually acting out towards younger sister.

On June 1, 1993 Mr. Powell brought a paper "with a detailed description of the suspects' house inside...[I]t can be noted that the description does not fit any of the homes these officers had checked..." [three total]. "All of the victims in the case have been interviewed with much inconsistency and lack of good evidence."

Dr. Amy Richardson saw Antuan on June 11, 1993 at the Care Clinic at Rainbow Babies and Childrens Hospital. A test or chlamydia antigen had been reported as positive from the mouth and rectum from the St. Joseph exam. Dr. Richardson noted in her letter of June 28, 1993 that chlamydia antigen is well recognized as being a very inexact test and having no medicolegal value. All tests at the Care Clinic were reported as negative. No abnormalities of the genitalia were noted, except mild anal dilatation. His mother reported no specific sexualized behaviors and non-specific findings of having been crying easily, moody, and withdrawn were noted. "This was not initially a spontaneous disclosure, but was in response to questions prompted by revelations of the allegations to his parents by Ms. Grondin." The week this evaluation took place Antuan and his mother were questioned by a reporter for the Lorain Journal. Ms. Gilchrist was cautioned against any further questioning or reporting to media people "as this can contaminate the investigation."

On June 15, 1993 is the first available transcript of an interview with Antuan. Detective Andujar and Mr. Powell are present. Detective Andujar immediately focuses the topic of the interview. "I understand Joseph made some real bad, um, threats to you making you afraid of him or what he might do to your family or your friends." Mr. Powell does as well. "OK, lets try and work on the inside of the house." Mr. Powell does much of the questioning. Neither questioner permits Antuan to give an open-ended account or description. Mr. Powell repeatedly exhorts Antuan to tell the truth. He brings in information from earlier. "You told me yesterday that he had glasses." Questions are leading and directed at confirming past accounts or assumptions. "Did they dots (sic) on the fingers? Antuan, come on, you're changing your story. Don't change. Tell the truth...' "So tell me what you told me last night. That's what I want to know. That's what you need, that's what you have to tell him, the same thing you told me. You don't remember what you told me. Do you remember? The assumption is made that Antuan's difficulties are due to being scared. No alternate hypothesis is considered. "Do you remember what I told you about your little sister? Do you want him to get her?"

A series of questions then are asked by both men about the interior of the home. Many of the questions appear to have been asked before by Mr. Powell who is comparing answers. "I'm just going over what you told me. I want to see if you're sticking to your story. Some of the stuff you told me I know is changed." Answers that don't conform are questioned.

Dad:	What kind of stairs does he have?
Antuan:	Wood.
Dad:	Are you sure? They're not concrete?

Mr. Powell continues to confront Antuan with inconsistency in a challenging and coercive manner.

Dad:	Tell the truth...what color did you see behind them?
Antuan:	Um...
Man:	Try and remember.
Dad:	Are you sure? OK. Now are you sure they're like this? Are they smooth like this? Come here and feel this. Come here. I want to make sure. Is this how it felt? OK, all right. That's what you say ...

The questioning continues with a clear demand to produce answers. "OK, I want you to keep telling the truth, I don't want you to lie. Daddy doesn't like liars. You know that, huh? OK. You told me how many rooms are in the basement."

Antuan eventually appears to leave the interview. The two men continue to talk. Mr. Powell continues to describe the allegations as facts and sees any inconsistencies as not "the truth." (see pp. 22-23)

The night before, according to police documents, Mr. Powell and Antuan had gone driving to identify the suspects' house. The police report does not reflect the coercive nature of the interview.

On July 22, 1993 Detective Andujar met with Antuan and his mother and then Antuan alone. The detective asked Antuan to identify colors and then stated the purpose of the interview. "You know

your (sic) here for what happened to you, right? What happened to you, Amanda, Nikki?" An anatomical drawing was then used to do a body survey of parts and function. In general this interview is initially conducted in an appropriate manner, although often when Antuan gives an answer inconsistent with the adults' assumptions he is re-questioned and challenged.

Man:	OK. And what is this?
Antuan:	The other private stuff
Man:	OK. What do you call it? What do you call it?
Antuan:	Private stuff.
Man:	You don't call it a butt? You call it your private?

The questioning then resumes about school, bus drivers, and after a brief survey of who else drove the bus, questions about Nancy. Many of the questions again repeat past ground covered in previous formal and informal interviews. The evaluator gives no indication of understanding that previous questioning which was intense, coercive, and relentless in confirming adult assumptions could have contaminated the child's account, even in the face of an interview which had begun in a somewhat more neutral fashion. Detective Andujar's questioning more subtly pursued confirming the earlier accounts of the other children.

Antuan:	And Nancy was in the car with him. Nancy had to go get us.
Man:	OK. She was in a car? Not a bus?
Antuan:	Not on the bus.
Man:	Who went with you that time.
Antuan:	Um...
Man:	Was there any other kids other than Nikki and Amanda?
Antuan:	Aleah and Brian and Brittany.
Mn:	Brittany? OK...

When Antuan doesn't spontaneously talk about "cookies," Andujar leads him to this topic.

Man:	Tootsie Rolls. How about cookies and stuff like that? Cookies and cake or anything?

Antuan: Only cookies and Tootsie Rolls.

Man: OK. Did he do anything to the cookies that made them taste bad? What?

In this interview a "photo lineup" is done. When Antuan initially says he doesn't recognize any of the pictures, Andujar presses on. "Oh, look at them. One of them is your bus driver." Again Antuan says no. "Are you looking..right. Who's your bus driver?" Another lineup is also put forth of men. Antuan identified an individual , Richard Jones, as Joseph, and indicated his uncle had taken him by Mr. Jones' residence. ("He just was gonna make sure if I remember him.") Andujar continues to challenge this identification.

Man: So are you sure that's Joseph, or did someone tell you that's Joseph?

Antuan: This is Joseph.

Informal family-based investigations continue. Interestingly Antuan appears slightly better able to resist suggestion by professionals than family members.

In August, 1993, Detective Andudyar took Antuan to the area of Head Start to see if he could identify the house he was taken to. Antuan and the officer walked along the route related by Antuan. Antuan began to appear confused. He said he was looking for a cousin's house (K.K.) and that K.K. lived across from Joseph's house. He said he was lost and didn't know where to go from this point. The officer then took him in the vicinity of Mr. Jones' home, since he "supposedly pointed out Jones' house to his father as being the house where Joseph lived. As we rode down the street, Antuan looked at Mr. Jones' house and didn't say anything about it. He then pointed out a white house as being the house which Nancy took him to. This officer then asked if he was sure it was the house. Antuan stated that he knows it was the house because his cousin, K.K., told his father that Joseph lived there. At this time this officer took Antuan back home and advised his mother to tell her family to stay out of this investigation, and to not take Antuan back down that street."

On November 4, 1993, Antuan was questioned about items taken from the Joe Allen residence. No transcript is available of this interview. Other Head Start children were taken from an earlier lineup to the detective office as well. It is not indicated if the potential witnesses were separated

in any waiting area before and after they were questioned. Antuan was questioned first and asked specifically about bed sheets. He said baseball bats (no indication is made of such an item on the inventory list). He was also asked about any Halloween mask. He said and shook his head yes. (Antuan had earlier said a mask of a black person with grey hair was used.) Antuan was shown a mask (identified as item #10, described as a green and yellow mask). No details are described as obtained from Antuan except an apparent assent that Joseph wore the mask. Antuan's father was in the interview and had earlier said that Antuan had talked about a mask in the past. The pattern of asking specific detailed questions from the adults continued, focused on the items found in the Allen residence, asking for Antuan's assent to the items. By the time of trial testimony, Antuan described a mask consistent with that found at the Allen residence. By the time of testimony Antuan endorses with apparent confidence numerous allegations he had initially denied prior to his extensive coercive questioning.

Current Functioning

Antuan is entering 5th grade in Mainstream classes at Irving School. He is on no medication and is in no current counseling. He has spent his summer playing basketball, swimming, and playing with two friends.

His parents describe him as having "a mouth." In 4th grade he would get into trouble for talking back or mumbling under his breath. He also had hit another boy and his father was called in. His father attributes these problems to the allegations. His parents see him as having a negative attitude toward women in authority. "Whether it's women or women of authority that have control over him at certain times, I don't think he likes it. And that's something that we're working on... He hasn't came at me. I hope he doesn't; I have a nice belt. Btu mainly women that have some type of authority over him, he tends to in his mind tell them to go to hell, so to speak, and I don't blame him, but I can't condone...(Powell depo, p 97) He is reported to have difficulty with concentration. He is often moved in his classroom to avoid being disruptive. He has had no individual educational testing.

His parents see him as being more irritable and oppositional, and less outgoing than he was prior to the Head Start allegations. They report his having three nightmares per week, but are unaware

of their content. They deny he makes spontaneous remarks about the allegations.

For the past 1 ½ years the household has included Antuan, his parents, a sibling, the maternal grandparents, and an aunt, uncle, and cousin. The Powell family sleeps in one bedroom. Antuan is in a bunk bed.

He has no active medical symptoms. He was spoken to by the police once when he was accused of using a water gun.

From May, 1993 to September, 1994 Antuan was seen at CCYS for individual, family, and group counseling (personal safety group). At the time of the last appointment his mother reported his appetite and sleep were good; there was no problem with bowels or bladder, and no nightmares. His initial diagnosis was adjustment disorder with mixed emotions and behavior. He experienced a change of therapists. The second therapist designated his diagnosis as post-traumatic stress disorder. On April, 1998 psychological report by Antone Feo, Ph.D., gives "a diagnosis" of post-traumatic stress disorder in full remission.

Relevant Past History

Antuan was born out of wedlock at St. Joseph's, and weighed approximately five pounds. His gross motor milestones were achieved within normal limits. From 1987 to 1992 Ms. Gilchrist and Antuan lived with the maternal grandparents. Mr. Powell moved in when Antuan was 8 months. Antuan has a sister, Angelica, now 8. The family briefly moved out of this residence in 1992. Mother and children moved back in with the elder Gilchrists, but Mr. Powell reported he had nearly daily contact with the children. The couple denies a history of domestic violence. They deny sexual intimacy when the children are in the bedroom. Antuan is reported to bathe and dress alone. They report one episode when Antuan was 5 or 6 when they found him laying on his sister. No other sexual acting out is reported. There is no known history of a past victimization. There is no past history of mental health contacts prior to the CCYS services in 1993. There is no history of self-harm behaviors.

Discipline includes within the family time outs, belt spankings, taking his basketball away, and

groundings up to one day.

He began Head Start in September, 1991 until May, 1993. He was reported to have generally liked day care and related well with peers.

Mr. Powell has a history of alcohol dependence. He was treated in April, 1996 with a 12-week inpatient stay at the Campus. He has a history of four or five DUI's, some predating June, 1993.

Interview Presentation

Antuan, now 10, presented as polite, well-groomed boy, who described his mood as pretty good. He described himself as a good student who sometimes has difficulty with concentrating and talking back. He denies being fidgety. He denies thoughts of Head Start at school. He sleeps well, but has some repetitive dreams of Nancy and Joseph, fearing they will get out of jail. He reports such dreams as 2-3 times per week. His appetite is good. His energy is "high." He denies a loss of interest or hopelessness or helplessness. He denies triggers to the memories of the allegation. When asked about possible flashbacks, he appeared to change his answer from "a little bit" to "often." He denies suicidal ideas or plans. He has not ritualistic thoughts or actions. He describes being afraid after a dog bit him at age 9, and when Nancy and Joseph "got me."

Antuan states his family first became aware of the allegations when Nikki called his house and said, "remember those cookies with the white stuff?" He says he said, "what cookies?" because he didn't want to tell because of threats by Joseph to kill his family.

OPINION:

Antuan, now 10, presents as a somewhat subdued boy whose parents give a history of some oppositional behaviors. He is on no medications, and at present receives no counseling. He does not endorse active post-traumatic symptoms, which is conceded by Dr. Feo's report of describing Antuan's diagnosis as in "full remission." There is little indication that past assessments addressed the coercive family interactions or Mr. Powell's alcohol abuse which are additional stressors.

The assessment of the allegations surrounding Antuan begin with parent-to-parent contact and the sharing of specific aspects of the evaluation, as well as a group interview by professionals of potential victims, including Antuan. Both events and the subsequent coercive, leading, and intense formal and informal questioning of this preschooler indicate a significantly flawed evaluation, and include factors strongly associated with significant contamination.

Kathleen M. Quinn, M.D.

PERIOD BEGINNING _____ 19____

ect Attendance PERIOD ENDING _____ 19____

MONTH		March					March					April					April					April				
DATE		22	23	24	25	26	29	30	31	1	2	5	6	7	8	9	12	13	14	15	16	19	20	21	22	23
NAMES		M	T	W	T	F	M	T	W	T	F	M	T	W	T	F	M	T	W	T	F	M	T	W	T	F
yant, Demetra	1		X	X	H	X		X	X	X	O	X	X	X	X	H						X	O	X	X	X
ortes, Nelson	2																									
	3		X	X	H	X		O	O	X	O	H	H	O	O	X						X	O	X	X	X
Diaz, Jasmi	4																									
	5		X	X	H	X		O	X	X	O	O	H	X	X							X	X	X	X	X
ancescki, Mon	6																									
	7		X	X	H	H		X	X	X	O	H	X	X	O							X	X	X	H	X
Kenny, Christop	8																									
	9		X	X	H	H		X	X	H	X	H	X	X	O							X	X	X	X	X
Edwards, Brand	10																									
	11		X	X	H	H		X	X	X	O	O	H	O	X							X	X	X	X	X
Valerio, Shan	12																									
	13		X	H	H	H		O	X	X	X	O	X	H	O	X						X	X	X	X	X
Nola, Jessica	14																									
	15		X	X	H	H		X	X	X	X	H	X	H	H							X	X	X	X	X
tiz, Alex 1-2	16																									
	17		X	X	O	H		X	O	O	O	O	O	X	X							O	X	X	X	X
Salazar, Arale	18																									
	19		X	X	H	H		X	X	O	X	H	X	X								X	X	X	X	O
well, Antwan	20																									
	21		X	X	H	H		X	X	O	H	H	X	X	X							X	X	X	X	X
eth, Brittney	22																									
	23		O	X	H	X		X	X	X	H	X	H	X	X							X	O	X	H	X
ley, Samuel	24																									
	25		X	X	X	O		X	X	O	H	O	H	X	X	O						X	X	X	H	O
Delvan, Thomas	26																									
	27		X	X	O	O		X	X	X	H	H	H	X	O	X						X	X	X	X	X
Thomson, David	28																									
	29		X	X	H	X		X	X	X	H	O	H	X	X	O						X	X	X	H	X
Penelevenne, Jona	30																									
	31		X	X	H	H		O	O	O	H	H	H	X	X	X						X	O	X	H	X
Zuniga, Lorenzo	32																									
	33		X	X	H	X		X	X	X	H	H	H	X	X	X						X	X	X	H	X
ER, Merkle	34																									
	35		X	X	H	X		X	X	X	H	H	H	X	X	X						X	X	X	X	X
	36																									
	37																									
	38		17	18	18	16		14	15	14	14	12	14	17	14	11						17	19			

PERIOD BEGINNING _____ 19____

Subject Attendance PERIOD ENDING _____ 19____

MONTH		Feb					Feb					March					March					March				
DATE		15	16	17	18	19	22	23	24	25	26	1	2	3	4	5	8	9	10	11	12	15	16	17	18	19
NAMES		M	T	W	T	F	M	T	W	T	F	M	T	W	T	F	M	T	W	T	F	M	T	W	T	F
Bryant, Demetra 7-21-88	1			X	X	O				X	X	X	X	O	O		X	X	X				X	X	X	X
	2																									
Cortes, Nelson 12-4-88	3			X	X	X				X	X	X	X	X	X		X	X	X				X	X	X	X
	4																									
Diaz, Josue 6-29-88	5			X	O	O				X	X	X	X	X	X		X	X	X				O	X	O	X
	6																									
Francheschi, Monique 7-9-88	7			O	X					X	X	X	X	X	X		X	X	X				X	X	X	X
	8																									
McKinney, Christopher 10-24-87	9			X	X	X				X	X	X	X	X	O		X	X	X				X	X	X	X
	10																									
Medina, Briana 10-5-87	11			X	X	X						X	X	O	X		X	X	X				X	X	X	X
	12																									
Molina, Sharon 10-31-88	13			X	X	O				X	X	X	X	X	X		X	X	X				O	X	O	O
	14																									
Nichols, Jessica 12-25-87	15			X	X	O				X	X	O	X	X	X		X	X	X				O	O	O	O
	16																									
Ortiz, Alex 1-25-88	17			X	X	X				O	X	X	X	X	O		X	X	X	O			X	X	X	X
	18																									
Stolarz, Oralee 6-5-88	19			X	X	X				X	X	X	X	X	O		X	X	X				X	X	X	O
	20																									
Powell, Arturo 10-13-87	21			X	X	*				X	X	X	X	X	X		X	X	X				X	O	X	X
	22																									
Smith, Brittney 12-8-88	23			X	X	X				X	X	X	X	X	X		X	X	X				X	X	X	X
	24																									
Soler, Samuel 3-20-89	25			X	O	O				6	X	O	O	O	O		X	X	X				X	X	X	X
	26																									
Velvain, Thomas 6-3-88	27			O	X	X				X	X	X	X	X	X		X	X	X				X	X	X	X
	28																									
Williamson, David 6-1-88	29			X	X	O				X	X	X	X	X	X		X	X	X				X	X	X	X
	30																									
Veneteenne, Anarelle 12-28-87	31			O	X	X				X	X	X	X	X	X		X	X	X				X	X	X	X
	32																									
Zuniga, Soraya 6-3-88	33			X	X	X				X	X	X	X	X	X		X	X	X				X	X	X	X
	34																									
Lee, Mekki 12-2-88	35			O	X	O				X	O	X	O	X	X		X	X	X				X	X	X	X
	36																									
	37																									
	38			4	16	11				16	17	16	16	15	13		18	18	15	17		15	15			

Emily left school

Jessica Nichols

Brittney Smith

Subject Attendance + presence

PERIOD BEGINNING _____ 19____

PERIOD ENDING _____ 19____

MONTH						January					January					January					February				
DATE						11	12	13	14	15	18	19	20	21	22	25	26	27	28	29	1	2	3	4	5
NAMES						M	T	W	T	F	M	T	W	T	F	M	T	W	T	F	M	T	W	T	F
Bryant, Demetrea 7-21-88	1	X	X	X	X		X	X	X	X		X	X	0	0		X	X	X	X		X	X	X	X
Cortes, Nelson 12-4-88	2	X	X	0	X		X	X	X	0		X	X	X	X		X	X	X	X		X	X	X	X
Diaz Josue - 6-29-88	3	X	X	X	X		X	X	X	X		X	X	0	0		X	X	X	X		X	X	X	X
Franceschi, Marigue 1-7-88	4	X	X	X	X		X	0	X	X		0	X	X	X		X	X	X	X		X	X	X	X
McKinney, Christopher 10-24-87	5	X	X	X	X		X	0	0	0		X	X	X	X		X	X	X	X		X	X	X	X
Medina, Brian 10-5-87	6	X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X
Molina, Shawn 1-31-88	7	X	X	0	0		X	X	X	0		X	X	X	X		X	X	X	X		X	X	X	X
Nichols, Jessica 12-25-87	8	X	X	0	X		X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X
Ortiz, Alex 1-25-88	9	X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X		0	X	X	X
Ostalaza, Julio 6-5-88	10	X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X
Powell, Arthur 10-13-87	11	X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X
~~Serano Jesse 3-7-88~~	12																								
Smith, Brittney 12-18-88	13	X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X
Soler, Samuel 3-30-89	14	X	X	0	X		6	X	X	X		X	X	X	X		X	0	0	0		0	0	0	0
Williamson, David 6-1-88	15	X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X		X	0	X	X
Widman Thomas 6-3-88	16	X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X
Wienebrenner, Amanda 12-28-87	17	X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X
Young, Lorenzo - 6-3-88	18	X	X	X	X		X	X	X	X		X	X	0	0		0	X	X	X		X	X	X	X
Zelek Nikki - 12-2-88	19	X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X		X	X	X	X
	20																								
	21																								
	22																								
	23																								
	24																								
	25																								
	26																								
	27																								
	28																								
	29																								
	30																								
	31																								
	32																								
	33																								
	34																								
	35																								
	36																								
	37																								
	38	18	18	14	17		17	16	17	15		17	18	15	15		16	16	16	15					

Subject Attendance + preser 76 PERIOD BEGINNING 19

PERIOD ENDING 19

	NAMES	MONTH / DATE
1	Bryant, Demetr	
2	7-	21-88
3	Cortes, Nelson	
4	12	-4-88
5	Diaz Josue,	-6-2 9-88
6	Franceschi, Mo	nique
7	1	7-88
8	McKinney, Christ	opher)
9	10-24-	87
10	Medero, Brian 10	-5-87
11	Molero, Shawn 10	-31-88
12	Nichols, Jessee 12	-25-87
13	ortiz, alex 1-	25-88
14	Ostalaza, Adri	6-5-88
15	Powell, Antwan 10	-13-87
16	Lavaro, Jesse 3	-7-88
17	Smith, Britney 1	2-18-88
18	Soler, Samuel, 3	-20-87
19	Williamson, David	6-1-88
20	Widman Thomas	6-3-88
21	Winebrenner, Amand	a 12-28-87
22	young, Lorenzo - 6	-3-88
23	Zelel Nikki - 12	-2-88
24		
25		
26		
27		
28		
29		
30		
31		
32		
33		
34		
35		
36		
37		
38		

	May										Nov										Dec										Dec									
	16	17	18	19	20	23	24	25	26	27	1	2	3	4	7	8	9	10	11	14	15	16	17																	
	M	T	W	T	F	M	T	W	T	F	M	T	W	T	F	M	T	W	T	F	M	T	W	T	F	M	T	W	T	F	M	T	W	T	F	M	T	W	T	F
1	X	X	O	X	X	X	X	X			X	X	X	X		X	X	X	X		X	X	X																	
2																																								
3	X	X	X	X	X	X	X				X	X	X	X		X	X	X	X		X	X	X																	
4											X																													
5	X	X	X	X	X	X	X				X	X	X	X		X	X	X	X		O	X	X																	
6	X	X	X	X	X	X	X				X	X	X	X		X	X	X	X		X	X	X																	
7																																								
8	X	X	X	X	X	X	X				X	X	X	X		X	X	X	X		X	X	X																	
9																																								
10	X	X	X	O	X	X	X				X	X	X	X		X	X	X	X		X	X	X																	
11	X	X	X	X	X	X	X				X	X	X	O		X	X	X	X		X	X	X																	
12	X	E	E	X	X	X	X				X	X	X	X		X	X	X	X		X	X	O																	
13	X	X	X	O	X	X	X				X	X	X	X		X	X	X	X		X	X	X																	
14	X	X	X	X	X	X	X				X	X	X	X		X	X	X	E		X	O	X																	
15	X	E	X	X	X	X	X				X	X	X	X		X	X	X	X		X	X	X																	
16																																								
17	X	X	X	X	X	X	X				X	X	X	X		X	X	X	X		X	X	X																	
18	X	X	X	O	X	X	X				X	X	X	X		X	X	X	X		X	X	X																	
19	E	E	X	X	O	O	O				O	O	O	O		X	X	X	X		X	X	X																	
20	X	X	X	X	X	X	X				X	X	X	X		X	X	X	X		X	X	X																	
21	X	X	X	X	X	X	X				X	X	X	X		X	X	X	X		X	X	X																	
22	X	X	X	X	X	O	O				X	X	X			X	X	X	X		X	X	X																	
23	X	X	X	O	X	X	X				X	X	X			X	X	X	O		X	X	X																	
24																																								
25																																								
26																																								
27																																								
28																																								
29																																								
30																																								
31																																								
32																																								
33																																								
34																																								
35																																								
36																																								
37																																								
38																																								

MARK DISTRIBUTION

MARK DISTRIBUTION SEMESTER

FOR SHORT PAGE
REMOVE AT PERFORATION

	Period Marks			Semester		
	1	2	AV.	EX.	GR.	Class Rank
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
29						
30						
31						
32						
33						
34						
35						
36						
37						
38						

Oct Nov Nov

19 20 21 22 23 27 28 29 30 2 3 4 5 6 9 10 11 12 13

M T W T F M T W T F M T W T F M T W T F M T W T F

Daily Average | Test | Period Average

Transferred to AM class

Subject Attendance T present PERIOD BEGINNING 19 7 o

PERIOD ENDING 19

MONTH						Sept					Sept					Sept					Oct					Oct					
DATE						17	18	21	22	23	24	25	28	29	30	1	2	5	6	7	8	9	12	13	14	15	16				
NAMES		M	T	W	T	F	M	T	W	T	F	M	T	W	T	F	M	T	W	T	F	M	T	W	T	F	M	T	W	T	F
Bryant, Demetr	1																														
7-	2																														
ortes, Nelson	3																														
12-4-88	4																														
iaz Josue - 6-2	5																														
9-88	6																														
apecchi, Ma	7																														
nique	8																														
1-9-88	9																														
n°Kinney, Christ	10																														
topher)	11																														
10-24-87	12																														
edesma, Brian 10	13																														
-5-87	14																														
olivia, Shawn 12	15																														
-31-88	16																														
ichols, Jessen 12	17																														
-25-87	18																														
ez, alia 1-25	19																														
-88	20																														
stalaza, Julio 6	21																														
-5-88	22																														
rell, Antwan 12	23																														
-13-87	24																														
runo Jose - 3	25																														
-7-88	26																														
mith, Brittney 12	27																														
-18-88	28																														
Baker, Samuel 3	29																														
-20-87	30																														
illiamson, David	31																														
6-1-88	32																														
idman Thomas	33																														
6-3-88	34																														
ieselbrenner, Amand	35																														
a 12-28-87	36																														
ouns, Lorenzo - 6	37																														
-3-88	38																														
Zebel Nikki - 12																															
-2-88																															

MARK DISTRIBUTION

MARK DISTRIBUTION SEMESTER

FOR SHORT PAGE
REMOVE AT PERFORATION

Daily Average	Test	Period Average

	Period Marks			Semester		
	1	2	AV.	EX.	GR.	Class Rank
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
29						
30						
31						
32						
33						
34						
35						
36						
37						
38						

Absence Analysis

Nancy Smith — Hired Date: September 10, 1990

1993	JANUARY	None
	FEBRUARY	02/03 >> Self Sick - 2hrs.
	MARCH	None
	APRIL	Lay-off from 04/10/93 returning 04/19/93 04-20-93 >> Self Sick - 6 hrs. 04-21-93 thru 04-23-93 >>Family Death -3 days
	MAY	Effective 05/11/94 delivering the Home Bound Meals.
	JUNE	Lay-off from June 18, 1993 returning September 7, 1993
	JULY	Lay-off status
	AUGUST	Notified employee of position eliminated effective September 3, 1993. Laidlaw Company contracted for transportation services.

Absence Analysis

Elizabeth Powell — Hired Date: November 4, 1992

1992	NOVEMBER	None		
	DECEMBER	None		
1993	JANUARY	None		
	FEBRUARY	None		
	MARCH	03/16	Birthday	6 hrs.
		03/26	Self Sick	6 hrs.
	APRIL	None Lay-off from 04/09/93 returning 04/19/93		
	MAY	05/20	Self Sick	6 hrs.
		Lay-off from 05/29/93 returning 09/07/93		
	JUNE	Lay-off status		
	JULY	Lay-off status		
	AUGUST	Notified employee of position eliminated effective September 3, 1993. Laidlaw Company contracted for transportation services.		

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
JANUARY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
AGUAYO, MILDRED	01/21	SF	4 hrs.
ALDRIDGE, BARBARA			
ALEXANDER, VIVIAN			
AVALOS, HELEN			
AZA-GATES, LOURDES	01/14	SS	8 hrs.
* BARLOW, MARILYN			
* BELCHER, KELLY LYNN			
BELTRAN, ABRAHAM	01/07	Birthday	6 hrs.
BOWDLER, NELLIE	01/26	SS	4 hrs.
	01/27	SS	8 hrs.
* BOYD, PORTIA			
* BRADFORD, MIRANDA			
* BROOKS, FLORENCE	01/25	Unexcused	5 hrs.
* BROUD, JUDITH A.			
CAMPBELL, MARY E.			
* COATES, SUSAN			
COLE, KATHY			
* COLLONSENIO, TERESA			
COLVIN, DOROTHY			
COOPER, DOROTHY	01/11 - 01/15	SS	40 hrs.
	01/19 - 01/22	SS	32 hrs.
	01/25 - 01/29	SS	40 hrs.
COSOM, MICHAEL			
CROOK, LYNDA	01/27	SS	7 hrs.
	01/28	SS	8 hrs.
	01/29	SS	8 hrs.
DAVIS, IDA MAE			
DEJESUS, ELISA			
ELKINS, SHAUNA	01/11 - 01/15	LOA-Maternity	40 hrs.
	01/19 - 01/22	LOA - "	32 hrs.
	01/25 - 01/29	LOA - "	40 hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
JANUARY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
FARLEY, NANCY			
FIELDS, EDITH	01/25	SS	8 hrs.
	01/26	SS	8 hrs.
	01/27	SS	8 hrs.
FLANDERS, DOROTHY			
* FLORES, HELEN			
GAGE, JENNIFER			
GARCIA, JOSEPHINE			
* GARCIA, FRANCES			
GLADDEN, NADINE			
GOODEN/WALLACE, DOROTHY	01/14	FS	7 hrs.
	01/28	SS	8 hrs.
	01/29	SS	8 hrs.
GOODWIN, RACHEL			
GREEN, JANELL L.			
* HAGERMAN, SHERRY			
HALL, JUDITH A.			
HARPER, NANCY			
HENRY, SHARON			
HENRY-MORRIS, REGINA			
HOUGH, TRACY			
HURST, JOANNE			
JACKSON, DORIS			
* JAMES, RITA			
JIMISON, SAMMIE			
JOHNSON, KRISTY			
* JOHNSON, STEVEN			
JONES, CECELIA			
JONES, GLORIA			
LINTON, MELISA			
MALONE, BARBARA			
MATHIS, BRENDA			
MAUCK, MARIA			
McCORMICK, JOANNE			
MINCY, JOHN			
* NUNEZ, MICHELLE	01/29	Unexcused	6 hrs.
* OLIVER, EMILY	01/20	Unexcused	6 hrs.
	01/21	Unexcused	6 hrs.
	01/22	Unexcused	6 hrs.
PEREZ, NORMA			
PEYTON, DELORES			

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
JANUARY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
PIAZZA, JULIE			
PIERRO, MARIANNE			
* POWELL, ELIZABETH			
PRICE, ROBERTA	01/25	SS	8 hrs.
RAY, DENISE			
RIVERA, ALICE			
RIVERA, HILDA			
RUSH, SELINA			
* SANCHEZ, BRENDA	01/27 ** Per Glen she resigned.		
* SANCHEZ, LYNN P.			
* SANCHEZ, VICTORIA			
SANTOS, BELINDA			
SERAZIN, LILLIAN	01/06	SS	8 hrs.
	01/25	SS	8 hrs.
SHUMPERT, DEBBIE			
SIMMONS, LILLIE			
SMITH, NANCY			
* SMITH, MICHELLE A.			
SMUCKER, SHARON	01/14	SS	8 hrs.
SNIPES, ELIZABETH			
* SOTO, EDUARDO			
SWART, AUDREY			
TARRANT, DOROTHY			
TAYLOR, CHARMAIN	01/15	SS	1 hr.
TODAK, ROBIN S.	01/13	SS	4 hrs.
	01/19	SF	8 hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
JANUARY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
TORRES, GRICELL			
VALENTINE, BRENDA			
WADE, DONNA	01/26	SS	8 hrs.
	01/27	SS	4 hrs.
WATKINS, LILLY			
WEHLER, JEAN			
WILSON, JEANETTE			
WITT, AUDREY			
WREN, LINDA			
WRICE, LAURIE	01/11 - 01/15	LOA-Maternity	25 hrs.
	01/19 - 01/22	LOA "	25 hrs.
	01/25 - 01/29	LOA "	25 hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
FEBRUARY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
AGUAYO, MILDRED			
ALDRIDGE, BARBARA	02/10	SS	8 hrs.
	02/11	SS	8 hrs.
	02/12	SS	8 hrs.
ALEXANDER, VIVIAN			
AVALOS, HELEN			
AZA-GATES, LOURDES	02/02	SS	8 hrs.
* BARLOW, MARILYN	02/11	Birthday	4 hrs.
* BELCHER, KELLY LYNN	02/02 - 02/05	SS	40 hrs.
	02/17 - 02/19	SS	24 hrs.
	02/22	SS	8 hrs.
(Called late)	02/23	SF	8 hrs.
	02/24- 02/26	SS	24 hrs.
BELTRAN, ABRAHAM			
BOWDLER, NELLIE			
* BOYD, PORTIA	02/11	DF	5 hrs.
	02/23	No transportation	5 hrs.
	02/25	SS	5 hrs.
	02/26	SS	8 hrs.
* BRADFORD, MIRANDA			
* BROOKS, FLORENCE	02/23	SS	4 hrs.
	02/26	SS	5 hrs.
* BROUD, JUDITH A.	02/23	SS	8 hrs.
	02/24	SS	8 hrs.
CAMPBELL, MARY E.	02/22	SS	4 hrs.
	02/23	SS	8 hrs.
* COATES, SUSAN			

* NEW HIRES

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
FEBRUARY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
COLE, KATHY	02/10	SS	6 hrs.
	02/11	SS	6 hrs.
	02/12	SS	6 hrs.
	02/16	SS	6 hrs.
	02/17	SS	6 hrs.
	02/18	SS	6 hrs.
	02/19	SS	6 hrs.
* COLLONSENIO, TERESA	02/23	Left early	6 hrs.
	02/24	SS	8 hrs.
COLVIN, DOROTHY	02/26	SS	4 hrs.
COOPER, DOROTHY	02/01 - 02/05	LOA - S.S.	40 hrs.
	02/08	Unexcused	8 hrs.
	02/09	Resigned per Marianne P.	
COSOM, MICHAEL			
CROOK, LYNDA	02/23	Car trouble	8 hrs.
DAVIS, IDA MAE	02/18	SS	8 hrs.
	02/25	SS	8 hrs.
DEJESUS, ELISA	02/23	SS	4 hrs.
	02/24	SS	8 hrs.
ELKINS, SHAUNA	02/01 - 02/05	LOA - Maternity	40 hrs.
FARLEY, NANCY	02/02	SS	8 hrs.
	02/03	SS	8 hrs.
	02/23	Weather	8 hrs.
FIELDS, EDITH	02/22	SS	8 hrs.
	02/23	Tardy	1 hr.
FLANDERS, DOROTHY			
* FLORES, HELEN			
GAGE, JENNIFER	02/03	SS	8 hrs.
	02/22	SS	4 hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
FEBRUARY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
GARCIA, JOSEPHINE			
* GARCIA, FRANCES	02/23	Car trouble	8 hrs.
GLADDEN, NADINE	02/23	SS	8 hrs.
GOODEN/WALLACE, DOROTHY	02/01	SS	8 hrs.
	02/02	SS	8 hrs.
	02/24	SS	8 hrs.
GOODWIN, RACHEL			
GREEN, JANELL L.			
* HAGERMAN, SHERRY			
HALL, JUDITH A.			
HARPER, NANCY	02/11	SS	8 hrs.
HENRY, SHARON			
HENRY-MORRIS, REGINA	02/02	SS	6 hrs.
	02/03	SS	8 hrs.
HOUGH, TRACY			
HURST, JOANNE	02/17	SS	2 hrs.
JACKSON, DORIS	02/22 - 02/26	SS	40 hrs.
* JAMES, RITA			
JIMISON, SAMMIE			
JOHNSON, KRISTY			
* JOHNSON, STEVEN			
JONES, CECELIA			
JONES, GLORIA			
LINTON, MELISA	02/03	SS	8 hrs.
	02/04	SS	8 hrs.
	02/05	SS	8 hrs.
	02/23	Car trouble	8 hrs.
MALONE, BARBARA			
MATHIS, BRENDA	02/25	SS	8 hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
FEBRUARY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
MAUCK, MARIA			
McCORMICK, JOANNE	02/26	SS	8 hrs.
MINCY, JOHN	02/10	SS	6 hrs.
	02/11	SS	6 hrs.
* NUNEZ, MICHELLE	02/17	SS	6 hrs.
* OLIVER, EMILY			
PEREZ, NORMA			
PEYTON, DELORES	02/01 - 02/05	DF	40 hrs.
PIAZZA, JULIE			
PIERRO, MARIANNE			
* POWELL, ELIZABETH	02/12	SF	2 hrs.
PRICE, ROBERTA	02/19	DF	8 hrs.
RAY, DENISE			
RIVERA, ALICE			
RIVERA, HILDA			
RUSH, SELINA	02/16	SF	1 hr.
* SANCHEZ, BRENDA			
* SANCHEZ, LYNN P.	02/03	SS	8 hrs.
	02/16	SS	8 hrs.
	02/17	SS	8 hrs.
	02/18	SS	8 hrs.
	02/19	SS	8 hrs.
* SANCHEZ, VICTORIA			
SANTOS, BELINDA			
SERAZIN, LILLIAN			
SHUMPERT, DEBBIE			
SIMMONS, LILLIE			
SMITH, NANCY			
* SMITH, MICHELLE A.			
SMUCKER, SHARON			

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
FEBRUARY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
SNIPES, ELIZABETH	02/02	SS	8 hrs.
	02/22	SS	4 hrs.
* SOTO, EDUARDO	02/10	SF	3 hrs.
SWART, AUDREY	02/23	Personal	4 hrs.
TARRANT, DOROTHY	02/23	SS	8 hrs.
TAYLOR, CHARMAIN	02/01	SS	7 hrs.
	02/02	SS	8 hrs.
	02/16	SS	8 hrs.
	02/17	SS	8 hrs.
TAYLOR, DONNETTA	02/03	SS	6 hrs.
TODAK, ROBIN S.	02/23	Personal	8 hrs.
TORRES, GRICELL			
VALENTINE, BRENDA	02/09	SF	8 hrs.
	02/10	SS	8 hrs.
	02/18	SS	8 hrs.
WADE, DONNA			
WATKINS, LILLY			
WEHLER, JEAN			
WILSON, JEANETTE	02/19	DF	8 hrs.
WITT, AUDREY	02/22	SS	8 hrs.
	02/26	SS	8 hrs.
WOOTEN, MARY	02/03	SS	6 hrs.
WREN, LINDA	02/19	SS	2 hrs.
	02/22	SS	8 hrs.
	02/23	SS	8 hrs.
	02/24	SS	8 hrs.
WRICE, LAURIE	02/01 - 02/05	LOA - Maternity	25 hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
MARCH 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
AGUAYO, MILDRED	03/05	SF	8 hrs.
ALDRIDGE, BARBARA	03/08	SS	8 hrs.
	03/09	FS	8 hrs.
ALEXANDER, VIVIAN			
AVALOS, HELEN	03/05	FS	8 hrs.
AZA-GATES, LOURDES	03/11	SS	8 hrs.
	03/15	SS	8 hrs.
	03/22	SS	4 hrs.
BARLOW, MARILYN	03/08	Unexcused (Personal Day not approved)	
	03/09	Called Sick - Scheduled for meeting with Locke did not attend.	
	03/10	Meeting with Mr. Locke - On Administrative Leave	
BELCHER, KELLY LYNN	03/04	FS	8 hrs.
	03/05	DF	8 hrs.
	03/11	Received a letter of resignation.	
BELTRAN, ABRAHAM			
BOWDLER, NELLIE			
BOYD, PORTIA	03/01	SS	8 hrs.
	03/02	FS	8 hrs.
	03/05	FS	5 hrs.
	03/10	SS	8 hrs.
	03/11	FS	8 hrs.
BRADFORD, MIRANDA	03/05	SS	8 hrs.
BROOKS, FLORENCE	03/03	Unexcused	5 hrs.
BROUD, JUDITH A.	03/11	DF	8 hrs.
CAMPBELL, MARY E.			
COATES, SUSAN			
COLE, KATHY			

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
MARCH 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
COLLONSENIO, TERESA			
COLVIN, DOROTHY	03/05	SF	8 hrs.
	03/15	SS	8 hrs.
COSOM, MICHAEL			
CROOK, LYNDA	03/08	SS	8 hrs.
DAVIS, IDA MAE	03/15	Birthday	8 hrs.
DEJESUS, ELISA	03/08	SS	8 hrs.
ELKINS, SHAUNA			
FARLEY, NANCY	03/10	SS	8 hrs.
FIELDS, EDITH			
FLANDERS, DOROTHY			
FLORES, HELEN			
GAGE, JENNIFER	03/08	SS	8 hrs.
	03/22	Birthday	8 hrs.
GARCIA, JOSEPHINE			
GARCIA, FRANCES	03/01	SS	8 hrs.
	03/02	FS	8 hrs.
	03/03	SS	8 hrs.
	03/04	SS	8 hrs.
GLADDEN, NADINE			
GOODEN/WALLACE, DOROTHY	03/03	DF	8 hrs.
	03/04	DF	8 hrs.
GOODWIN, RACHEL			
GREEN, JANELL L.	03/08	SS	8 hrs.
HAGERMAN, SHERRY	03/17	SS	6 hrs.
HALL, JUDITH A.	03/08	SS	8 hrs.
HARPER, NANCY	03/25	SS	8 hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
MARCH 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
HENRY, SHARON	03/04	SS	3 hrs.
	03/25	SF	8 hrs.
	03/26	SF	8 hrs.
HENRY-MORRIS, REGINA	03/01	FS	3½ hrs.
	03/02	FS	8 hrs.
HOUGH, TRACY	03/22	Birthday	8 hrs.
HURST, JOANNE			
JACKSON, DORIS	03/03	SS	8 hrs.
	03/04	SS	8 hrs.
	03/05	SS	8 hrs.
JAMES, RITA			
JIMISON, SAMMIE			
JOHNSON, KRISTY			
JOHNSON, STEVEN	03/18	SS	3 hrs.
	03/19	SS	6 hrs.
JONES, CECELIA	03/10	SS Accident on Duty	3 hrs.
	03/11	SS	8 hrs.
	03/12	SS	8 hrs.
JONES, GLORIA			
LINTON, MELISA			
MALONE, BARBARA			
MATHIS, BRENDA			
MAUCK, MARIA	03/04	SS	6 hrs.
McCORMICK, JOANNE			
MINCY, JOHN	03/11	SS	6 hrs.
* MUNOZ, PROVIDENCIA			

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
MARCH 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
NUNEZ, MICHELLE	03/03	Glen informed Personnel Michelle had a baby.	
	03/04	SS - Requesting Leave of Maternity is not in writing.	
PEREZ, NORMA			
PEYTON, DELORES			
PIAZZA, JULIE	03/18	SS	8 hrs.
	03/19	SS	3 hrs.
	03/30	SS	8 hrs.
	03/31	SS	8 hrs.
PIERRO, MARIANNE			
POWELL, ELIZABETH	03/16	Birthday	6 hrs.
	03/26	SS	6 hrs.
PRICE, ROBERTA	03/02	FS	8 hrs.
	03/17	SS	8 hrs.
	03/22	Birthday	8 hrs.
RAY, DENISE			
RIVERA, ALICE	03/22	Birthday	8 hrs.
RIVERA, HILDA			
RUSH, SELINA	03/31	SS	8 hrs.
SANCHEZ, LYNN P.			
SANCHEZ, VICTORIA			
SANTOS, BELINDA			
SERAZIN, LILLIAN			
SHUMPERT, DEBBIE			
SIMMONS, LILLIE			
SMITH, NANCY			
SMITH, MICHELLE A.	03/30	SS	5 hrs.
SMUCKER, SHARON			
SNIPES, ELIZABETH			
SOTO, EDUARDO			

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
MARCH 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
SWART, AUDREY	03/22	SS	4 hrs.
TARRANT, DOROTHY			
TAYLOR, CHARMAIN	03/01	SS	8 hrs.
	03/16	SS	8 hrs.
	03/30	SS	8 hrs.
TAYLOR, DONNETTA			
TODAK, ROBIN S.			
TORRES, GRICELL	03/22	Birthday	2 hrs.
	03/24	SS	8 hrs.
VALENTINE, BRENDA			
WADE, DONNA			
WATKINS, LILLY			
WEHLER, JEAN	03/15	FS	8 hrs.
WILSON, JEANETTE	03/02	FS	8 hrs.
	03/15	Birthday	8 hrs.
WITT, AUDREY	03/01	SS	4 hrs.
	03/03	SS	8 hrs.
	03/04	SS	8 hrs.
	03/05	SS	8 hrs.
WOOTEN, MARY			
WREN, LINDA			
WRICE, LAURIE	03/09	SS (?) Was not called in. A.M. - 2 hrs.	

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
APRIL 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
AGUAYO, MILDRED			
ALDRIDGE, BARBARA			
ALEXANDER, VIVIAN	04/01	Tardy	25 mts.
	04/02	Funeral	6 hrs.
AVALOS, HELEN	04/28	SS	8 hrs.
AZA-GATES, LOURDES			
BELTRAN, ABRAHAM			
BOWDLER, NELLIE			
BOYD, PORTIA			
BRADFORD, MIRANDA			
BROOKS, FLORENCE	04/19	Tardy	10 mts.
	04/26 - 04/28	Suspended	3 days
BROUD, JUDITH A.			
CAMPBELL, MARY E.	04/02	SS	8 hrs.
COATES, SUSAN			
COLE, KATHY			
COLLONSENIO, TERESA			
COLVIN, DOROTHY	04/22	FS	4 hrs.
COSOM, MICHAEL			
CROOK, LYNDA	04/21	SS	8 hrs.
DAVIS, IDA MAE			
DEJESUS, ELISA	04/26	SS	8 hrs.
ELKINS, SHAUNA	04/29	SS	8 hrs.
FARLEY, NANCY	04/28	SS	8 hrs.
FIELDS, EDITH	04/26	SS	8 hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
APRIL 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
FLANDERS, DOROTHY			
FLORES, HELEN			
GAGE, JENNIFER			
GARCIA, JOSEPHINE			
GARCIA, FRANCES			
GLADDEN, NADINE	04/09	SS	8 hrs.
GOODEN/WALLACE, DOROTHY			
GOODWIN, RACHEL			
GREEN, JANELL L.	04/02	Birthday	8 hrs.
HAGERMAN, SHERRY			
HALL, JUDITH A.			
HARPER, NANCY	04/19	SS	2 hrs.
HENRY, SHARON			
HENRY-MORRIS, REGINA			
HOUGH, TRACY	04/23	SS	8 hrs.
HURST, JOANNE			
JACKSON, DORIS	04/20	Birthday	2 hrs.
JAMES, RITA			
JIMISON, SAMMIE			
JOHNSON, KRISTY			
JOHNSON, STEVEN			
JONES, CECELIA			
JONES, GLORIA	04/09	Birthday	8 hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
APRIL 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
* LERCH, COLLEEN	04/20	Last Day worked	
LINTON, MELISA			
MALONE, BARBARA			
MATHIS, BRENDA	04/05	SS	8 hrs.
	04/06	SS	8 hrs.
	04/22	SS	4 hrs.
	04/23	SS	8 hrs.
McCORMICK, JOANNE			
MINCY, JOHN	04/05	SS	6 hrs.
	04/29	DF	6 hrs.
	04/30	DF	6 hrs.
* MONTANEZ, JOSE	04/28	Personal	4 hrs.
* MORALES, FRANCES			
* MUNOZ, PROVIDENCIA			
PEREZ, NORMA	04/05	SS	8 hrs.
* PEREZ, SONIA	04/26	SS	8 hrs.
PEYTON, DELORES			
PIAZZA, JULIE			
PIERRO, MARIANNE			
POWELL, ELIZABETH			
PRICE, ROBERTA	04/26	SS	4 hrs.
RAY, DENISE			
RIVERA, ALICE			
RIVERA, HILDA			
* ROSEBOROUGH, PAMELA			
RUSH, SELINA			

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
APRIL 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
SANCHEZ, LYNN P.	04/29	Birthday	1 hr.
SANCHEZ, VICTORIA			
SANTOS, BELINDA			
SHUMPERT, DEBBIE			
SIMMONS, LILLIE			
SMITH, NANCY	04/21 - 04/13	DF (3 days)	18 hrs.
SMITH, MICHELLE A.			
SMUCKER, SHARON	04/01	FS	8 hrs.
SNIPES, ELIZABETH	04/22	SS	2 hrs.
	04/26	SS	8 hrs.
SOTO, EDUARDO			
SWART, AUDREY	04/23	Birthday	4 hrs.
	04/23 (no pay)	Personal	4 hrs.
TARRANT, DOROTHY			
TAYLOR, CHARMAIN	04/19	SS	8 hrs.
TAYLOR, DONNETTA			
TODAK, ROBIN S.			
TORRES, GRICELL	04/22	FS	4 hrs.
VALENTINE, BRENDA	04/19	FS	1 hr.
WADE, DONNA			
WATKINS, LILLY			
WEHLER, JEAN	04/02	FS	8 hrs.
WILSON, JEANETTE	04/30	SS	4 hrs.
WITT, AUDREY			
WOOTEN, MARY			
WREN, LINDA	04/02	FS	4 hrs.
WRICE, LAURIE	04/22	Unexcused	6 hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
MAY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
AGUAYO, MILDRED			
ALDRIDGE, BARBARA			
ALEXANDER, VIVIAN	05/04	Vacation	8 hrs.
	05/11	SS	8 hrs.
AVALOS, HELEN			
AZA-GATES, LOURDES	05/10	SS	8 hrs.
	05/26	SS	8 hrs.
	05/27	SS	8 hrs.
BELTRAN, ABRAHAM			
BOWDLER, NELLIE	05/05	SS	8 hrs.
BOYD, PORTIA			
BRADFORD, MIRANDA	05/03	SS	8 hrs.
BROOKS, FLORENCE			
BROUD, JUDITH A.	05/12	SS	8 hrs.
	05/13	SS	8 hrs.
CAMPBELL, MARY E.	05/07	Birthday	4 hrs.
COATES, SUSAN	05/18	Birthday	4 hrs.
COLE, KATHY			
COLLONSENIO, TERESA	05/18	Biirthday	2 hrs.
COLVIN, DOROTHY	05/07	SS	3 hrs.
COSOM, MICHAEL			
CROOK, LYNDA			
DAVIS, IDA MAE			
DEJESUS, ELISA	05/04	SS	8 hrs.
	05/05	SS	8 hrs.
	05/06	SS	8 hrs.
	05/07	SS	8 hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
MAY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
ELKINS, SHAUNA			
FARLEY, NANCY	05/03	Birthday	8 hrs.
FIELDS, EDITH			
FLANDERS, DOROTHY	05/14	SS	4 hrs.
FLORES, HELEN			
GAGE, JENNIFER	05/07	SS	4 hrs.
GARCIA, JOSEPHINE	05/12	SS	5 hrs.
	05/13	SS	5 hrs.
GARCIA, FRANCES			
GLADDEN, NADINE			
GOODEN/WALLACE, DOROTHY	05/06	FS	4 hrs.
	05/07	FS	8 hrs.
	05/10	SS	8 hrs.
GOODWIN, RACHEL			
GREEN, JANELL L.	05/05	SS	8 hrs.
	05/27	SS	8 hrs.
HAGERMAN, SHERRY			
HALL, JUDITH A.			
HARPER, NANCY	05/17	Birthday	8 hrs.
HENRY, SHARON			
HENRY-MORRIS, REGINA	05/03	SS	8 hrs.
HOUGH, TRACY	05/04	SS	8 hrs.
	05/12	SS	8 hrs.
	05/13	SS	8 hrs.
HURST, JOANNE	05/04	Jury Duty	3 hrs.
JACKSON, DORIS	05/04	Birthday	1½ hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
MAY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
JAMES, RITA			
JIMISON, SAMMIE			
JOHNSON, KRISTY			
JOHNSON, STEVEN			
JONES, CECELIA			
JONES, GLORIA	05/05	SS	6 hrs.
LINTON, MELISA	05/03	SS	8 hrs.
	05/25	SS	8 hrs.
MALONE, BARBARA			
MATHIS, BRENDA			
McCORMICK, JOANNE			
MINCY, JOHN			
* MONTANEZ, JOSE	05/06	DF	6 hrs.
* MORALES, FRANCES			
* MUNOZ, PROVIDENCIA			
PEREZ, NORMA			
* PEREZ, SONIA			
PEYTON, DELORES			
PIAZZA, JULIE			
PIERRO, MARIANNE			
POWELL, ELIZABETH	05/20	SS	6 hrs.
PRICE, ROBERTA	05/19	SS	8 hrs.
	05/20	SS	8 hrs.
	05/21	SS	8 hrs.
RAY, DENISE	05/12	Funeral	8 hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
MAY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
RIVERA, ALICE			
RIVERA, HILDA			
* ROSEBOROUGH, PAMELA	05/24	Unexcused	6 hrs.
	05/25	Unexcused	6 hrs.
	05/26	Unexcused	6 hrs.
RUSH, SELINA	05/28	Vacation	8 hrs.
SANCHEZ, LYNN P.	05/17	SS	8 hrs.
SANCHEZ, VICTORIA			
SANTOS, BELINDA			
SHUMPERT, DEBBIE			
SIMMONS, LILLIE			
SMITH, NANCY	05/26	SS	8 hrs.
SMITH, MICHELLE A.			
SMUCKER, SHARON			
SNIPES, ELIZABETH			
SOTO, EDUARDO			
SWART, AUDREY			
TARRANT, DOROTHY	05/17	Birthday	8 hrs.
TAYLOR, CHARMAIN			
TAYLOR, DONNETTA			
TODAK, ROBIN S.	05/24	SS	8 hrs.
TORRES, GRICELL			
VALENTINE, BRENDA	05/27	FS	4 hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
MAY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
AGUAYO, MILDRED			
ALDRIDGE, BARBARA			
ALEXANDER, VIVIAN	05/04	Vacation	8 hrs.
	05/11	SS	8 hrs.
AVALOS, HELEN			
AZA-GATES, LOURDES	05/10	SS	8 hrs.
	05/26	SS	8 hrs.
	05/27	SS	8 hrs.
BELTRAN, ABRAHAM			
BOWDLER, NELLIE	05/05	SS	8 hrs.
BOYD, PORTIA			
BRADFORD, MIRANDA	05/03	SS	8 hrs.
BROOKS, FLORENCE			
BROUD, JUDITH A.	05/12	SS	8 hrs.
	05/13	SS	8 hrs.
CAMPBELL, MARY E.	05/07	Birthday	4 hrs.
COATES, SUSAN	05/18	Birthday	4 hrs.
COLE, KATHY			
COLLONSENIO, TERESA	05/18	Biirthday	2 hrs.
COLVIN, DOROTHY	05/07	SS	3 hrs.
COSOM, MICHAEL			
CROOK, LYNDA			
DAVIS, IDA MAE			
DEJESUS, ELISA	05/04	SS	8 hrs.
	05/05	SS	8 hrs.
	05/06	SS	8 hrs.
	05/07	SS	8 hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
MAY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
ELKINS, SHAUNA			
FARLEY, NANCY	05/03	Birthday	8 hrs.
FIELDS, EDITH			
FLANDERS, DOROTHY	05/14	SS	4 hrs.
FLORES, HELEN			
GAGE, JENNIFER	05/07	SS	4 hrs.
GARCIA, JOSEPHINE	05/12	SS	5 hrs.
	05/13	SS	5 hrs.
GARCIA, FRANCES			
GLADDEN, NADINE			
GOODEN/WALLACE, DOROTHY	05/06	FS	4 hrs.
	05/07	FS	8 hrs.
	05/10	SS	8 hrs.
GOODWIN, RACHEL			
GREEN, JANELL L.	05/05	SS	8 hrs.
	05/27	SS	8 hrs.
HAGERMAN, SHERRY			
HALL, JUDITH A.			
HARPER, NANCY	05/17	Birthday	8 hrs.
HENRY, SHARON			
HENRY-MORRIS, REGINA	05/03	SS	8 hrs.
HOUGH, TRACY	05/04	SS	8 hrs.
	05/12	SS	8 hrs.
	05/13	SS	8 hrs.
HURST, JOANNE	05/04	Jury Duty	3 hrs.
JACKSON, DORIS	05/04	Birthday	1½ hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
MAY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
JAMES, RITA			
JIMISON, SAMMIE			
JOHNSON, KRISTY			
JOHNSON, STEVEN			
JONES, CECELIA			
JONES, GLORIA	05/05	SS	6 hrs.
LINTON, MELISA	05/03	SS	8 hrs.
	05/25	SS	8 hrs.
MALONE, BARBARA			
MATHIS, BRENDA			
McCORMICK, JOANNE			
MINCY, JOHN			
* MONTANEZ, JOSE	05/06	DF	6 hrs.
* MORALES, FRANCES			
* MUNOZ, PROVIDENCIA			
PEREZ, NORMA			
* PEREZ, SONIA			
PEYTON, DELORES			
PIAZZA, JULIE			
PIERRO, MARIANNE			
POWELL, ELIZABETH	05/20	SS	6 hrs.
PRICE, ROBERTA	05/19	SS	8 hrs.
	05/20	SS	8 hrs.
	05/21	SS	8 hrs.
RAY, DENISE	05/12	Funeral	8 hrs.

ABSENCE ANALYSIS SUPPORT DATA
LORAIN HEAD START
MAY 1993

EMPLOYEE NAME	DATE	ABSENCE	TIME
RIVERA, ALICE			
RIVERA, HILDA			
* ROSEBOROUGH, PAMELA	05/24	Unexcused	6 hrs.
	05/25	Unexcused	6 hrs.
	05/26	Unexcused	6 hrs.
RUSH, SELINA	05/28	Vacation	8 hrs.
SANCHEZ, LYNN P.	05/17	SS	8 hrs.
SANCHEZ, VICTORIA			
SANTOS, BELINDA			
SHUMPERT, DEBBIE			
SIMMONS, LILLIE			
SMITH, NANCY	05/26	SS	8 hrs.
SMITH, MICHELLE A.			
SMUCKER, SHARON			
SNIPES, ELIZABETH			
SOTO, EDUARDO			
SWART, AUDREY			
TARRANT, DOROTHY	05/17	Birthday	8 hrs.
TAYLOR, CHARMAIN			
TAYLOR, DONNETTA			
TODAK, ROBIN S.	05/24	SS	8 hrs.
TORRES, GRICELL			
VALENTINE, BRENDA	05/27	FS	4 hrs.

LORAIN COUNTY COMMUNITY ACTION AGENCY

TIME SHEET

Employee Sherry Hagerman Pay Period 5-1-93 to 5-14-93

Position Bus Aide Program L.C.C.A.

DATE	NUMBER OF SCHEDULED HOURS	HOURS WORKED	SICK TIME	VACATION	HOLIDAYS	COMP. TIME	OTHER
SAT. 5-1-93							
SUN. 5-2-93							
MON. 5-3-93	0	0					
TUE. 5-4-93	6	6					
WED. 5-5-93	6	6					
THUR. 5-6-93	6	6					
FRI. 5-7-93	6	6					
SAT. 5-8-93							
SUN. 5-9-93							
MON. 5-10-93	0	0					
TUE. 5-11-93	6	6					
WED. 5-12-93	6	6					
THUR. 5-13-93	6	6					
FRI. 5-14-93	7	7					
TOTALS	49 hrs.	49 hrs.					

This time sheet is accurate and complete. I understand that false information on this time sheet is reason for immediate dismissal.

Employee Sherry Hagerman No. 10636 Date 5/14/93

Department Director Glen F. Thiele Date 5-14-93

[FOR FINANCE DEPARTMENT USE]

Total Hours to be paid _____ X Hourly Rate _____ Gross Pay _____

Verified by _____

Approved by _____

Check No. _____ Net Pay _____

LCCAA FORM NO. 142 REV. 9/90 1 of 2

Complete in ink.

Overtime is not allowed unless authorized by the Project Director or Designee.

3. Compensatory time must be taken within the same pay period it is earned with approval by the Department Director.

4. This time sheet will not be processed unless it is completed and signed by both employee and Department Director.

5. Use this side of form to breakout distribution of time to more than one funding source.

TIME DISTRIBUTION (DATE)	J. W. HOME	CATERING	STATE H.S.	FAMILY DEMO	PA 2-2	CSBG ADMIN.	CSBG DIR. SER.	HEAP		HWAP EXXON	HWAP DOE	HWAP EX. SUP.	HWAP HHS. SUP.	TITLE IIIB AM.	TITLE IIIC AM.	TITLE IIIC OP.	TITLE V ADMIN.	TITLE V O.E.O.	GAS DOCK	
5-1-93																				
5-2-93																				
5-3-93					0															
5-4-93					6															
5-5-93					6															
5-6-93					6															
5-7-93					6															
5-8-93																				
5-9-93																				
5-10-93					0															
5-11-93					6															
5-12-93					6															
5-13-93					6															
5-14-93					7															
TOTAL					49															

EMPLOYEE Shirley Hageman EMPLOYEE NO. 10636

BUS A[illegible]E HEAD START
NAME: CHERRY R. HAGERMAN

DATE: P/E . 05-14-93 10636

JOB	AM'T	RATE		ELAPSED TIME	TIME
			OUT		9 3
11 7 1			IN		11 [illegible]
90 01 1			OUT		[illegible]
			IN		[illegible]
91 11 1			OUT		
15 1 51			IN		[illegible]
11 6 1			OUT		
			IN		
7 11			OUT		7 [illegible]
8h 9			IN		9 [illegible]
			OUT		[illegible]
1h 11			IN		
6h 1 1			OUT		[illegible]
			IN		[illegible]
12 6:15			OUT		11 2[illegible]
12 7			IN		7 1 5
			OUT		[illegible]
57 9			IN		7 9 [illegible]
24 11			OUT		
			IN		
12 2			OUT		
13 6:15			IN		
11 7 1			OUT		
			IN		
6h 1 1			OUT		
			IN		
			OUT		
			IN	AB	7:08

TOPS FORM 1258 (L-61) LITHO IN U.S.A.

AO 245 S (Rev. 4/90) Sheet 1 - Judgment in a C

United States District Court

NORTHERN District of OHIO

FILE COPY
DO NOT REMOVE
2-30-91

UNITED STATES OF AMERICA

V.

Margaret Grondin

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 1:90CR0012-004

(Name of Defendant)

Harvey Starkoff
Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) I

☐ was found guilty on count(s) _____ after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21:846 & 21:841(a)(1)	Conspiracy to Distribute and to Possess with with intent to Distribute Cocaine, a class C felony	7/17/91	I

91 JUL 19 PM 1:32
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984..

☐ The defendant has been found not guilty on count(s) _____ and is discharged as to such count(s).

☒ Count(s) III and IV (is)(are) dismissed on the motion of the United States.

☒ It is ordered that the defendant shall pay a special assessment of $ 50.00, for count(s) I, which shall be due ☐ immediately ☐ as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 269-72-3409

Defendant's Date of Birth: July 24, 1965

Defendant's Mailing Address:

4217 Woodstock Drive

Lorain, OH

Defendant's Residence Address:

(same as above)

July 17, 1991
Date of Imposition of Sentence

John M. Manos
Signature of Judicial Officer

John M. Manos, U.S. District Judge
Name & Title of Judicial Officer

July 19, 1991
Date

Issued 7/19/91 KOS

• U.S. GPO: 1990-722-448 10286

Defendant: Margaret Grondin
Case Number: 1:90CR0012-004

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 12 Months. Imposition of sentence is suspended and defendant is place under house arrest for a period of six months. While under house arrest defendant can go to work, church and to the doctor if needed.

☐ The court makes the following recommendations to the Bureau of Prisons:

☐ The defendant is remanded to the custody of the United States marshal.
☐ The defendant shall surrender to the United States marshal for this district,
 ☐ at _____ a.m. / p.m. on _____.
 ☐ as notified by the United States marshal.
☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons,
 ☐ before 2 p.m. on _____.
 ☐ as notified by the United States marshal.
 ☐ as notified by the probation office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ at _____, with a certified copy of this judgment.

United States Marshal

By _____
Deputy Marshal

* U.S. GPO: 1990-727-44A / 10285

Defendant: Margaret Grondin
Case Number: 1:91CR0012-004

PROBATION

The defendant is hereby placed on probation for a term of Three (3) years.

While on probation, the defendant shall not commit another Federal, state, or local crime, shall not illegally possess a controlled substance, and shall not possess a firearm or destructive device. The defendant also shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant pay any such fine or restitution. The defendant shall comply with the following additional conditions:

SPECIAL CONDITION:

Drug Aftercare: Defendant shall participate in a program approved by the U.S. Probation Office, for treatment of narcotic addiction or drug dependency which will include testing to determine if defendant has reverted to the use of drugs.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4) the defendant shall support his or her dependents and meet other family responsibilities;
5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

*U.S.GPO 1990-722-448/10288

Defendant: Margaret Grondin
Case Number: 1:91CR0012-004

STATEMENT OF REASONS

☐ The court adopts the factual findings and guideline application in the presentence report.

OR

☒ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Six level reduction as a result of the Substantial Assistance to Authorities, pursant to Section 5K1.1

Guideline Range Determined by the Court:

Total Offense Level: 12

Criminal History Category: 1

Imprisonment Range: 10 to 16 months

Supervised Release Range: ____ to ____ years

Fine Range: $ _____ to $ _____

☒ Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: $ _____

☐ Full restitution is not ordered for the following reason(s):

☐ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

The sentence departs from the guideline range

☐ upon motion of the government, as a result of defendant's substantial assistance.

☐ for the following reason(s):

I hereby certify that this instrument is a true and correct copy of the original on file in my office.
Attest: Geri M. Smith, Clerk
U.S. District Court
Northern District of Ohio
By: _____
Deputy Clerk

I hereby certify that this instrument is a true and correct copy of the original on file in my office.
Attest: Geri M. Smith, Clerk
U. S. District Court
Northern District of Ohio
By Karen A. Smith
Deputy Clerk

*U.S.GPO:1990-722-448:10286

5-28-93

Parents in Lorain claim Head Start kids molested

By TERESA HOSHELL
and DAN JORDAN
Morning Journal Writers

LORAIN — Police are investigating allegations that three children, ages 4 and 5, who ride the bus to Lorain's Head Start program, were sexually molested, according to Police Chief Malinovsky.

Malinovsky and other police officials would not discuss the investigation. But parents of three children told The Morning Journal they have gone to police and have had their children examined at hospitals. The examinations confirmed at least two of the children were sexually abused, according to parents.

The three youngsters attended the Head Start program housed in rented space at Nativity Church, 420 W. 15th Street in Lorain, the parents said.

One couple said their 4-year-old daughter told them she endured sexual abuse over a three-month period by adults on the bus. The girl claimed she had been taken to two houses, where she said she was molested.

Head Start buses are staffed with a driver and an adult bus aide. On the particular bus the three children rode, a man who was not a Head Start employee was also on board at times, the

Please see **MOLESTED**, page A9



FRIDAY, MAY 28, 1993

MOLESTED

From the front page

children and parents said.

Police have not revealed who is the focus of their investigation.

The 4-year-old's parents said they first became suspicious when their daughter became noticeably anxious each day when the bus arrived.

"As soon as she would see that bus she would throw her arms up and scream," the girl's stepfather said.

The mother said her daughter claims a man and woman forced the girl to sexually touch both of them. The mother also said she believed the girl was abused in other ways.

The mother said she was sickened by her daughter's story.

"It was like someone put a knife in me," said the mother. "They did some pretty nasty things to these kids."

Another Lorain mother said her 5-year-old son told her Wednesday he was sexually abused by a woman on the Head Start bus and her male friend. The mother said she went to police as soon as she learned of the alleged abuse then took her son to St. Joseph Hospital and Health Center for an examination.

A St. Joseph spokesman confirmed the boy was brought to the hospital Wednesday and checked for sexual abuse.

The mother said her son was sodomized and forced to touch both the man and woman in their private areas. She said she pulled her son out of the Head Start program immediately.

The mother of a 5-year-old girl, the third youngster in the case, said her daughter also told her Wednesday that she was sexually molested. The woman said she immediately took her daughter to Lorain Community Hospital. But she said the hospital could not determine if any sexual abuse occurred because the attacks were said to have happened more than three weeks ago.

A Lorain Community Hospital spokeswoman could neither confirm nor deny that the 5-year-old girl had been examined.

However, the mother said police took a report at the hospital. She also said she planned to take her daughter to Rainbow Babies and Childrens Hospital in Cleveland for a more complete examination.

"I'm numb," the girl's mother said. "This happens to other people; that's what went through my mind ... I'm just shocked."

Head Start Director Salina Rush did not return several telephone calls. It was not possible to determine yesterday what action, if any, Head Start had taken to protect other children riding the bus.

William Locke, director of the Lorain County Community Action Agency — which oversees the Head Start program — said Tuesday he had not been contacted by police about the investigation. He was not available Wednesday or yesterday for additional comment.

Chief Malinovsky said the parents first came to police about two weeks ago. Malinovsky said he wasn't directly involved and isn't sure how many children may have been molested.

The detective investigating the case declined comment.

Lorain City Prosecutor Barry Motsch said yesterday the investigation had "come to my attention," but he declined to comment.

He_d Start _ex

Parents fret on sex case

Lorain cops vow action

By DARLENE BROWN
and BENJAMIN GLEISSER
Morning Journal Writers

LORAIN — Parents were frustrated yesterday seeking answers in the wake of shocking allegations that three children, ages 4 and 5, who ride the same bus to the Lorain Head Start program, were sexually molested.

The parents tried to demand answers from officials, but say they just kept getting told to call other telephone numbers.

Attempts by The Morning Journal to locate Head Start director Salina Rush were unsuccessful yesterday. But her boss, Community Action Agency director William Locke, said a bus driver has been relieved of her duties.

■ **Head Start silence. An editorial. See Page A4**

Please see **PARENTS,** page A11

PARENTS

From the front page

Locke said parents can be assured of their children's safety. "Everything is fine. If there are any problems, we're addressing those problems."

Police Chief John Malinovsky promised a complete investigation into complaints by the parents of the three children.

"We won't sweep anything aside," Malinovsky emphasized. "This is a priority. We have a 20-page report so far, and there's a lot more to go."

Parents of the three children, in interviews with The Morning Journal, said their children reported three adults were on board the Head Start bus: a driver, a bus aide and a male friend of either the aide or driver.

The children claim they were taken to houses, where they were sexually abused, according to the parents.

The bus transported students to the Head Start program housed in rented space at Nativity Church, 420 W. 15th St.

No arrests have been made.

"What two or three witnesses and suspects say, another two or three deny," Malinovsky said. "It's quite a tangled mess, but we hope to get to the bottom of it as soon as possible. We want to get the truth."

Malinovsky said he hoped to finish the report next week.

Meanwhile, concerned parents called police, Head Start and The Morning Journal, trying to determine if their children took the same bus as the children mentioned in yesterday's story.

One of those parents was Tammy Messer of Lorain, who said she had her 5-year-old daughter checked at St. Joseph's Hospital and Health Center yesterday. "They said every thing looks okay, but they will give me the final results of the tests next Thursday."

Mrs. Messer said while she was at the hospital, she heard a nurse tell a doctor, "You have another child here for the same reason."

"It was another Head Start kid being examined," Mrs. Messer explained in an agitated voice.

Mrs. Messer said she became concerned when she heard a woman bus driver was involved in the allegations, because the bus that took her daughter to Head Start was driven by a woman.

"She bought my child a book for Christmas and gave her a bunny rabbit, plus she would hug her every day," said the 25-year-old Mrs. Messer. "My daughter is friendly with a lot of people. I didn't think anything of it until now.

"I asked her if anybody touched her, or if the bus driver had a friend on the bus, or had they dropped her off at a house, and she said 'no.' "

Mrs. Messer said she made several calls trying to locate officials at Head Start or the agency which oversees Head Start, the Community Action Agency.

"I called the transportation service at Community Action, and they said I had to call Head Start. They kept giving me different telephone numbers."

Other parents said they had the same problem yesterday.

Locke, of the Community Action Agency, declined to talk about the investigation. "There have been no charges filed, and I think it would be somewhat premature for us to talk about this."

Locke said the Lorain County Community Action Agency has strict policies regarding the hiring of its employees and it checks for police records of all applicants.

lead Start case tough for police

ttle boy's story provided breakthrough on suspect

:OTT STEPHENS
DEALER REPORTER

LORAIN

st of the children who said were sexually molested while ding the Lorain Head Start am told police the same : A man named Joseph did s to them he shouldn't have

ly one little boy had a differ- ory.

he said, the man's name t Joseph. It was Allen.

the time, we thought, 's this kid thinking?'" Lo- police Capt. Celestino Rivera tted. "In hindsight, maybe it a piece of information we have picked up on."

at looked like a troubling in- stency eventually would be- a key piece of evidence.

lier this month, police ed an unemployed laborer raping a 15-year-old runaway an unrelated case. His name oseph L. Allen.

alling the two names the en had given them — Joseph llen — detectives also ques- l Allen, who has a criminal d of sexually abusing chil dren, about the Head Start case.

On Nov. 4, they filed six felony charges against the 40-year-old Lorain man alleging that he sexually abused five children. He was indicted last week by a Lorain County grand jury on two counts of compelling prostitution, two counts of rape and two counts of felonious sexual penetration.

Nancy J. Smith, 36, a single mother of three who drove a bus for Head Start for two years, was charged with taking children to Allen and participating in their abuse. She was indicted last week on one charge of gross sexual imposition, one count of attempted rape, one count of rape and two counts of complicity to rape.

The indictments culminated a six-month investigation in which police interviewed scores of children and parents, consulted with doctors and child abuse experts and studied 20 possible suspects.

Allen was not among the original 20 suspects, but he was no stranger to police.

In Lorain County, he has convictions for robbery and sexual battery. The latter conviction involved a relationship with an 11-year-old girl who was a ward of the county.



PD/RAMON OWENS

Buses drop children off at the Lorain Head Start program at Nativity School on W. 15th St.

In 1975, Allen was charged in Boston for the murder of a 72-year-old woman who lived in the apartment building where he worked as a maintenance man. Police said Allen struck the woman in the head eight times with a hammer. He was sentenced to life in prison in 1978 but the conviction was overturned.

Rivera said the Head Start probe

SEE HEAD/2-B

ttle boy's story provided breakthrough

FROM 1-B

most complex he had

problem was that
claimed to be mo-
interviewed by televi-
before they spoke to
the possibility that
views could influence
accounts.

problem was that small
their suggestibility
please whoever's
them, can be unrelia-

had some honest
out the case at the be-
said. "Part of the
dealing with 4- and
ms. And the day the
made a report to us,
on television that

ough case, but we're
have the right per-
said.

parents of the children al-
molested by Allen said the
put an end to their
had helped them
pain. Despite their
skepticism, they said, they
police and prosecu-
moving ahead with the

parents went to
together and were friends
allegations arose. The
bonded that friendship.
have to stick together,"
said. "Nothing gets
don't form a bond."

parents also know the
from over. The flurry of
appearances, newspaper sto-
nightmares will con-
months, if not years.

child is not sleeping good,"
mother said. "She remem-
the nasty things he did to

Part of the problem was that children who claimed to be molested were interviewed by television reporters before they spoke to police, raising the possibility that the TV interviews could influence the children's accounts.

The grandmother of one little girl said the child was scared and angry to see Allen's photograph in a newspaper after his arrest.

"She painted his eyes blue," the woman said. "She said she wanted to make him look like a monster."

Rivera said the children were threatened with physical harm if they told their parents, teachers or police about the alleged abuse. Parents said Allen threatened to put the youngsters in a snake-filled well if they dared to tell.

Rivera said the children's terror was evident when they were brought to the police station to review a lineup of suspects. The children identified Allen as their abuser, Rivera said.

"A couple of the kids were just terrified," upon seeing Allen in the lineup, Rivera recalled. "They were trembling and their voices were quivering."

Rivera said police were still reconstructing exactly how and where Allen and Smith carried out the alleged molestations. He said police believe the crimes took place near the Nativity School on W. 15th St., the Head Start location all the children attended.

"The children have always talked about a dark, ugly basement," Rivera said. "Allen lives in a cottage with no basement.

"We have a pretty good idea of where the house is, but we haven't identified it completely," Rivera said. "We believe it's right near the school, because a couple of the kids talked about walking to the house."

More problematic is how Smith and Allen did what they are charged with under the unsuspecting noses of teachers, parents and neighbors.

Parents said Smith sometimes picked the children up early or took them home late, but that they never suspected anything odd.

Rivera said at least one parent regularly rode on Smith's bus and never saw anything unusual, but he believes the children were abused on the days the parent did not ride.

Head Start officials said an adult aide must be on the bus with a driver at all times, but it's not clear whether that policy was followed. Rivera said police have no evidence that an aide was involved in the alleged abuse.

"Seven kids said, 'Nancy took us there,' " Rivera said. "You couldn't function without her knowledge."

But Jack W. Bradley, Smith's lawyer, said he believes the children are simply telling police and parents what they want to hear.

He said Smith doesn't know Allen, has no criminal record and no motivation to take children to him or anyone else. Most important, he added, the children's allegations defy logic.

"It's a nightmare that anyone who works with children might face," Bradley said. "She is devastated by this whole thing."

Allen's lawyer, Joseph R. Grunda, complained that the initial charges against his client gave no names of alleged victims, no location of the alleged crimes, and no dates of alleged offenses.

"He says he had nothing to with it," Grunda said. "But are you supposed to defend y self against something like this

Bradley said the case is an ample of children, parents, pc and the news media get "caught up in the moment."

"We need to get police agen better training in working these types of cases," he "There are a lot of studies b done because of the large nun of false accusations."

Bradley said the problems p experience in dealing with yc children as witnesses extend lawyers representing the accus

"It is very, very difficult to c examine a 4-year-old," Bra said. "It would be like me tryir cross-examine a child about there is no Santa Claus. The would tell you exactly why the a Santa Claus, and would give details of what Santa Claus did

Despite the hailstorm of acc tions, arrests and publicity, Head Start staff has continue do its job, said William Locke rector of the Lorain Commu Action Agency, which oversee program.

"We have a responsibility to tinue to conduct the progr Locke said. "The staff is ju anxious as I am to bring a clc to this whole thing. It puts a over the whole program."

Locke said he won't allow th legations against Smith and to stop the program's growth.

"(But) if we find out exact d of how this happened, we w certainly adopt changes to a that nothing like this ever hap again," Locke said.

Abuse case goes to jury

State urges trust in children's accounts

By JOEL RUTCHICK
PLAIN DEALER REPORTER

ELYRIA — A lawyer for the state implored a Lorain County jury to convict two people accused of sexually abusing Head Start preschoolers in a scheme to satisfy "sick sexual desires."

In his closing argument yesterday, Chief Assistant Prosecutor Jonathan E. Rosenbaum urged jurors to consider the genuine nature of children and to trust what they heard and saw in the courtroom.

"You can tell when they're lying and when they're not," Rosenbaum said. "How do these children fake shame and humiliation?"

The children testified in the trials of former city of Lorain sanitation worker Joseph Allen and one-time bus driver Nancy Smith, who stand accused of 14 counts of sexually abusing students last year. The state contends that Smith brought several youngsters to Allen and that the two molested the children and forced them to play sexual games.

"There may be some doubt in this case, but it is not reasonable doubt," Rosenbaum said. "Four-year-olds don't get this stuff from TV."

In his closing arguments, Smith's lawyer Jack W. Bradley said his client doesn't deserve to be called a felon and child molester because the case is short on direct evidence and full of reasonable doubt.

"He wants you to infer something happened because of other evidence that was presented to you," Bradley said of the prosecution's charges. "Don't get tricked into doing that. Make him prove his case."

Bradley and Joseph R. Grunda, Allen's lawyer, repeatedly told the Common Pleas jury about the "contamination" of child witnesses. They contended the children were influenced by what their parents told or showed them and leveled accusations to police to please their parents.

"We know their investigation was messed up in the beginning," Bradley said. "We don't interview children in front of their parents. . . It contaminates these little minds."

Grunda contended Allen and Smith ultimately became the unfortunate victims of pressure from parents of Head Start pupils who thought something happened at Nativity School. Police felt that pressure to charge someone, especially after stories about suspicions of sex abuse surfaced in newspapers and on television, Grunda said.

Despite the contamination of children, the youngsters had to figure out some things for themselves, he said. That's why the accounts of where they were abused varied from a basement to the third floor of an apartment, he said.

"They had to use their own little minds to figure that out," Grunda said.

Rosenbaum reminded jurors that police found several articles in searches of Allen's home — lights from a Halloween mask and a picture in a pornography magazine — after children had told authorities about those items.

SEE TRIAL/2-B

Abuse case goes to jury

TRIAL FROM 1-B

He addressed the contamination issue by saying that mothers of Head Start students repeated to the police what their children told them about the abuse.

Much of the case centered on the connection between Allen and Smith.

The state offered testimony from people who saw Allen on Smith's bus and hanging around the school, Rosenbaum said.

Smith testified she had never met Allen and didn't know him. Bradley contended the identifications of Allen were weak and that one was made by a woman who lied about her criminal record.

He said other prosecution testimony that a bus aide brandished a tire iron to prevent a man she later identified as Allen from boarding Smith's bus was blunted by one of his witnesses.

"She made a mistake," Bradley said. "She got sucked in, too."

tart sex

For Allen: 5 life terms – for Smith: 30-90 years

Michael Higgins
The Chronicle-Telegram AUGUST 4, 1994

ELYRIA — A Head Start bus driver and a Lorain man were found guilty today of brutally molesting three preschool children last year.

Bus driver Nancy Smith, 37, broke into heavy sobs as the first guilty verdict against her was read.

"I have never met this man," she said, pointing at her co-defendant, Joseph L. Allen, 41. "I have never seen this man. I never touched those children. Ever."

Allen whispered to his attorney, showing little emotion as Common Pleas Judge Lynett M. McGough read the guilty verdicts in his case.

Allen was found guilty of four counts of rape, three counts of felonious sexual penetration and one count of gross sexual imposition.

McGough sentenced him to five consecutive life sentences, plus 22 to 50 additional years in prison on other counts.

Smith was found guilty of rape, attempted rape and two counts each of complicity to rape and gross sexual imposition. McGough sentenced her to 30 to 90 years in prison.

Smith cried on the shoulder of her attorney, Jack W. Bradley, as McGough polled the six-man, six-woman jury, all confirming their votes of guilty.

"I didn't do this to those children, Jack," she cried. "I didn't do this. I am not a sick person."

"I didn't touch those children and he knows I didn't touch those children," she said, glaring at Chief Assistant Prosecutor Jonathan E. Rosenbaum. "Oh my God."

As spectators left the courtroom, the mother of a 5-year-old victim exchanged words with one of Smith's children.

"Your mother did this to my daughter," the woman said. "She got what she deserved."

In closing arguments Wednesday, Rosenbaum told the jury they could trust the children's testimony.

See **GUILTY**, A6

GUILTY

8-4-94

From A1

He said Smith took the children to meet Allen several times from January to May 1993 at an unknown location near Nativity School in Lorain. The two forced the children to perform sexual acts, prosecutors say.

But defense attorneys asked jurors to look skeptically at police and the children's parents, who they say put false allegations in the youngsters' heads.

Allen and Smith say they never sexually abused children and hadn't even met before police charged them.

The jury deliberated for more than 6½ hours.

In his closing argument, Rosenbaum asked jurors to consider the demeanor of the children on the witness stand.

"How do these kids fake shame and humiliation?" he asked.

Rosenbaum acknowledged that the children sometimes grew tired of testifying and then gave wrong or inconsistent answers. But he said jurors could separate those answers from the truth.

"What you saw was humiliated and scarred children, who sometimes told the truth and sometimes lied," he said. "But you can tell the difference."

Smith's attorney, Jack W. Bradley, argued that the children's testimony was not reliable. He pointed to two incidents last year in which children identified innocent people as the "Joseph" who molested them.

In one case, a 6-year-old identified a white man as "Joseph" at his father's urging. Allen is black.

"What does that tell you?" Bradley asked the jurors. "It tells you how easy it is to mold the mind of a child, to contaminate them."

"Somehow, those kids made those identifications based on information they got from their parents."

Allen's attorney, Joseph R. Grunda, said it was not a question of whether the children "lied" when they accused Allen and Smith last year.

"They really don't know what lies are at 4 years old," he said.

Rosenbaum argued that the children were credible because they were able to describe in advance items that police seized from Allen's house, including a mask, a rope, "Batman" sheets and a pink dress.

The fact that Allen, who lived alone, would own a pink dress was "an unfortunate coincidence," Rosenbaum said sarcastically.

Grunda said Lorain police only targeted Allen after Head Start parents complained in the media that the investigation was going too slowly. He portrayed police as desperate, telling detectives, "You gotta find somebody."

Bradley said police had "tunnel vision," ignoring evidence that might suggest Smith or Allen was innocent. He criticized Lorain police Detective Thomas Cantu for allowing parents to talk about the abuse allegations in front of their children, possibly influencing the preschoolers.

Rosenbaum argued that the mistake was minor. He said all of the allegations came first from the children.

"I concede that this is not how it should be done," he said. "But that is not contamination."

Rosenbaum said Allen and Smith had committed an "abominable crime" against children to feed "perverse and sick sexual desires."

"This is not a case of tunnel vision," he said. "This is not a case of mistake. You have all these people saying, 'This is what happened.' "

August 5 1992

Kids' details convinced juror



M
The

victed on eight counts and
life plus 20 to
to 30





Controlling pain
Non-traditional forms of therapy getting popular

Local and state, B1



SCORES Details in Sports

Ohio State	38	Northwestern	17	Alabama	35
Penn State	7	Michigan	16	Kentucky	7
Florida	42	Nebraska	39	West Virginia	34
Arkansas	7	Kansas State	3	Boston College	17

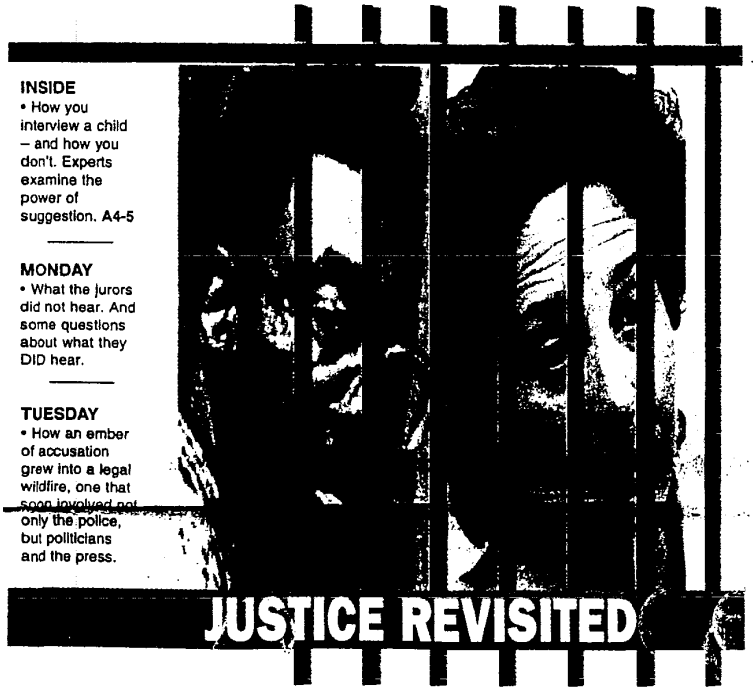
CHRONICLE
T E L E G R A M

Elyria, Ohio — One dollar

A CHRONICLE EXCLUSIVE

October 6, 1996
(Page A1)

MONSTERS OR VICTIMS?



INSIDE
• How you interview a child – and how you don't. Experts examine the power of suggestion. A4-5

MONDAY
• What the jurors did not hear. And some questions about what they DID hear.

TUESDAY
• How an ember of accusation grew into a legal wildfire, one that soon involved not only the police, but politicians and the press.

JUSTICE REVISITED

Paul Facinelli
The Chronicle-Telegram ©

Two years ago a child molestation case rocked Lorain County.

Four children told a jury that they had been molested by a woman their parents had trusted, their school bus driver. The woman charged with taking them safely to Head Start had also taken them to a den of horror, the children said, where the woman and a man violated them in shocking ways.

The children's testimony was crucial. The prosecution could not establish where the abuse had occurred. There were no specific dates or times. There was no physical evidence of abuse. Even the question of whether the man and woman knew each other was in dispute.

Fifteen months after the first allegations, the jurors had their say. They believed the children. They found Nancy Smith, the bus driver, and Joseph Allen guilty of all charges. A judge sentenced the two to maximum prison terms, five consecutive life terms for Allen, 30 to 90 years for Smith.

Now, with the defendants' appeals all but exhausted, the children's credibility has been subjected to another test. At the request of The Chronicle-Telegram, two experts who have written and lectured extensively about child interviewing techniques reviewed transcripts of 11 interviews police conducted with five children in the weeks after the first allegations surfaced in May 1993.

The experts' conclusions, reached independently, were essentially the same: The children's testimony in the Head Start case was hopelessly compromised by manipulative and coercive police questioning methods.

"If these interviews were the basis of testimony on which people were convicted, it is an affront to justice," Melvin Guyer of the University of Michigan said. "If people were convicted, it was on profoundly tainted testimony. These children were clearly tainted by the interviewing process."

See **JUSTICE**, A5

Nagging questions made Facinelli look for answers

The reporter on this series of articles today, Monday and Tuesday, Paul Facinelli, is a Chronicle-Telegram columnist.

About two months ago, Facinelli asked the newspaper's editors for time away from his normal tasks to investigate the Nancy Smith-Joseph Allen case.

He told editors the case had troubled him for some time, but only recently had he begun to familiarize himself with the case's public records: the trial transcript, police reports and, in particular, transcripts of police interviews with the molested children.

In reviewing The Chronicle's computer files on the case, he said, he had come across a letter to the editor from a reader who mentioned Ralph Underwager's book, "The Real World of Child Interrogations." After reading the book and the interview transcripts, Facinelli said he believed the case needed closer scrutiny.

Editors agreed and granted him his leave.



Facinelli

The reporter who covered the trial for The Chronicle, Michael Higgins, said the outcome was a close call, with suspense palpable in the courtroom as the jury returned from deliberations.

It was a difficult trial, prosecutors have said in retrospect, but they said they presented a strong case and they noted that the verdict held up on appeal.

If the jury had heard the information in Facinelli's series, would the verdict have been different? You be the judge and jury.

JUSTICE

From A1

Ralph C. Underwager, director of the Institute for Psychological Therapies in Northfield, Minn., said, "There is no way these interrogations can be seen to have produced reliable and valid information. If the people accused in this case were convicted, I can assure you it was a travesty of justice."

In addition to the transcript analysis, The Chronicle reviewed thousands of pages of public records in this case, uncovering evidence that the jury did not hear but that might have had a significant impact on its decision.

The unheard evidence includes Head Start attendance records, a report on Allen's police lineup and the difficulty the children had identifying him, and the criminal record of a key prosecution witness in the case.

The Chronicle also discovered that after television and newspaper coverage of the sex-abuse allegations had exploded, in part because parents sought out the media, authorities replaced the first detective assigned to the case and drastically intensified their search for suspects.

Lorain County Prosecutor Gregory White and Chief Assistant Prosecutor Jonathan Rosenbaum defended the police investigation. They pointed out that Ohio's Ninth District Court of Appeals had upheld the jury's verdict.

The experts' views

What the two experts had to say about the interviewing techniques of the police and social workers goes to the heart of the state's case: the children's testimony.

"The most grievous departure from accepted interviewing methods is the adults discussing their theories in front of the children, in effect informing and instructing the children on who the suspects are and what the adults believe the suspects did," Guyer said. "The adults developed a conspiracy theory and infused the children with the information."

White said the "contamination" issue had been raised at trial, but not developed enough to persuade the jury that the defendants were innocent.

Rosenbaum, without knowing the names of the experts or their credentials, said, "Your experts are bogus." He added that experts can be found to say anything.

According to Guyer and Underwager, however, the youngsters, two boys and two girls, ages 4 and 5 at the time of the initial police interviews, did not come to trial as blank slates.

Because of multiple taped interviews, 11 in all, brimming with leading questions, fantasy had become reality for the children, Underwager and Guyer said.

They said that the interviewers used questions and techniques that were manipulative and coercive to get the children



Underwager

"Having examined thousands of hours of videotapes, audiotapes and transcripts of children being questioned, these are some of the worst I have even seen."

Ralph C. Underwager
director of the Institute for Psychological Therapies in Northfield, Minn.

to substantiate preconceived notions of what had occurred.

"The children are treated as objects to be manipulated, not persons," Underwager said. "The interrogators use parents, other children, multiple interrogators and every cheap manipulative trick they can to elicit fabricated and false accounts from the little children.

"The interrogations are an extremely cruel and damaging abuse of these children by the state, the child protection system and the law enforcement system."

Guyer said, "All of the interviews are outrageous, horrible, terrible. Now let me be more clinical. In each and every interview, there are clear examples of coercive techniques. There is a high incidence of suggestibility and inappropriate questioning. It's outrageous.

"The techniques that were used do not even meet the minimum standards of appropriate interviewing with children so young. I feel confident when I say that any scientist familiar with proper child interviewing techniques would conclude from these transcripts that these children were pressured to validate a story that the adults had concocted."

Experts' credentials

Underwager, director of the Institute for Psychological Therapies in Northfield, Minn., has taught at St. Olaf College in Northfield and Pacific Lutheran University in Tacoma, Wash. He holds a doctorate from the University of Minnesota.

He has authored or co-authored 14 books and scores of articles about child interrogation techniques. He is an ordained Lutheran minister. Underwager has also consulted on more than 1,000 child sexual abuse cases, including the McMartin case in California, and has testified in more than 500 cases, including the landmark Margaret Kelly Michaels case in New Jersey.

Guyer is a full professor of psychology in the department of psychiatry at the University of Michigan. He holds a doctorate and a law degree from that institution. He has been on the faculty at Michigan since 1967. He has consulted or been an expert witness in some 50 child sexual abuse cases.

Neither Jack Bradley, Smith's attorney, nor Joseph R. Grunda, Allen's court-appointed attorney, called an expert on child interrogations to testify.

"If you had a lot of money, you could hire experts to say that kids can be coached and don't always tell the truth," Grunda said. "But you would have to spend a lot."

Underwager and Guyer reviewed transcripts of police interviews with five children, four of whom testified against Smith and Allen. The fifth child was judged not competent to testify. The interviews were conducted from May 11, 1993, four days after the first allegations of abuse were made, until July 22 of that year. Underwager and Guyer received no fee.

The interviewers were Tom Cantu of the Lorain Police Department, the first detective assigned to the case, Eladio Andujar, Cantu's replacement, as well as Sallye Miyara and Teresa Thornhill of Lorain County Children Services.

"Having examined thousands of hours of videotapes, audiotapes and transcripts of children being questioned, these are some of the worst I have even seen," Underwager said.

"The great majority of the questions are leading and suggestive. I cannot recall a single open-ended question used by the interrogators. The children are told that other children are telling the interrogators what happened, a procedure that's highly coercive.

"They are promised reinforcement and rewards. Any positive comments or positive reinforcements by the interrogators come only after the desired response is given. This is clearly teaching the children to comply and produce what the adult wants to hear."

A juror's response

In July 1994 the children told their stories in court. And according to juror Tammy Quillen, it was their testimony that convinced the jury to convict.

"I have no doubt in my mind that they were telling the truth," Quillen told The Chronicle's Ginger Parker in August 1995, a year after the trial. "I'm sorry. It was the look in their eyes. Kids just don't make up stuff like that."

"That's nonsense," Underwager said. "No, they don't make stuff up as such. But the adults pressure them to learn a story the adults want them to tell and so they learn it and tell it. And once they've learned it, told it and repeated it, it becomes real for them."

Because of the children's testimony, which the jury believed to be true, the jurors were able to set aside some of the misgivings they had with the supporting evidence, or lack of it, Quillen said.

But the children's testimony cannot remotely be trusted, Underwager and Guyer said, because of the motives and methods of those who conducted the pretrial interviewers.

In his 1990 book, "The Real World of Child Interrogations," Underwager wrote that many professionals are convinced that allegations of sexual abuse from a child must be unconditionally believed.

"If interrogators assume that abuse occurred," Underwager wrote, "they will perceive their role as substantiating the abuse so that appropriate action can be taken to protect the child and punish the perpetrator.

"The bias of the interviewer can affect both the selection of the information to be recorded and the substance of the information itself. If the professional believes that all or most allegations of abuse are real, he or she will produce information to validate abuse."

Three of the four primary interviewers in the Head Start case — Cantu and Children Services social workers Miyara and Thornhill — all told The Chronicle that they believed abuse had occurred before they interviewed the children.



Guyer

"All of the interviews are outrageous, horrible, terrible. Now let me be more clinical. In each and every interview, there are clear examples of coercive techniques. There is a high incidence of suggestibility and inappropriate questioning. It's outrageous.

Melvin Guyer
professor of psychology, department of psychiatry, University of Michigan

The fourth interviewer, Cantu's replacement Eladio Andujar, took over the Head Start investigation after Cantu was promoted and removed from the case. According to Lorain Police Chief Cel Rivera, who was the captain overseeing the Head Start case, he instructed Andujar to "start fresh."

Here is how Andujar introduced himself to the first child he interviewed after taking over:

"My name is Andujar. I'm going to be the one to try and help you out of this, OK? I'm not going to let no one hurt you. I understand Joseph made some real bad threats to you, making you afraid of him or what he might do to your family or your friends. Am I right?

"OK. Tell you what. You help me find this guy and I will put this guy away. You know your father wants the same thing (the boy's father is present). He wants to get this guy and put him in jail and so do we."

Interviewers' biases

In his book, "Sex Abuse Hysteria, Salem Witch Trials Revisited," Richard Gardner wrote that the field of sex abuse evaluation is "open territory," with no state having established certification guidelines for "therapists" in this field.

"Anyone can hang out a shingle," he wrote.

Gardner, a recognized expert in child sexual abuse, is clinical professor of child psychiatry at Columbia University. He has consulted and provided testimony in a dozen states and lectured to legal and mental professionals in 20 more. He has written two books on the topic.

He wrote that many sex abuse workers who are part of a government agency, "unashamedly refer to themselves as 'validators.' " Those who do, he said, "make no secret of the fact that the vast majority (if not all) of the children they have evaluated have been sexually abused."

After all, he said, as their name implies, their job is to "validate" what everybody knows happened.

The upshot, Gardner concluded, is that it's a no-win situation for individuals accused of sex abuse. According to many "validators," no one is innocent.

"Everyone is found to be guilty. They operate with impunity."

He imagined a solution in the courts, with the filing of malpractice suits against "validators." Such lawsuits, he wrote, might have a sobering effect.

"Unfortunately, most 'validators' are practicing at the same level of competence (or incompetence) as their peers and so do not satisfy an important criterion for malpractice," Gardner wrote, "namely, that the individual's level of practice is far below what is considered standard for peers at a similar level of training and experience.

"We are left, then, with a situation in which craziness is considered normality."

Interviews didn't follow

Paul Facinelli
The Chronicle-Telegram ©

If Lorain County prosecutors had followed guidelines established by a national prosecutors organization, they would have made sure that a person knowledgeable about child interviewing techniques had listened to tapes of police interviews with children before charges were filed in the Head Start molestation case.

The National Center for Prosecution of Child Abuse, an arm of the National District Attorneys Association based in Alexandria, Va., first published the guidelines in 1987, six years before charges were filed in the Head Start case. The guidelines were designed to help prosecutors prepare child abuse cases.

County Prosecutor Gregory White said he is a member of the district attorneys association.

A spokeswoman for the national center said the guidelines are part of a manual distributed to those who attend the district attorneys association's annual conferences.

The guidelines said, in part, that prosecutors "must be able to judge the quality of prior interviews," before filing charges.

Jonathan Rosenbaum, Lorain County's chief assistant prosecutor who tried Nancy Smith and Joseph Allen in the Head Start case, said he did not listen to taped interviews conducted by Detective Tom Cantu, who was promoted and taken off the case about six weeks after the initial allegations surfaced.

"I listened to the tapes of the detectives who solved this case," Rosenbaum said.

In a meeting with The Chronicle's editor, executive editor and publisher, Rosenbaum discredited Cantu's handling of the investigation.

He said Cantu knew Smith because the two played bingo together. He said it was no secret that Cantu "is not the brightest guy around," and said that Cantu's investigation was "biased" and "trash."

The Chronicle obtained Cantu's performance reports for 1992 and 1993, the year preceding and the year of the Head Start investigation. There were three reporting periods for the Lorain Police Department over that time.



Rosenbaum

Jonathan Rosenbaum said he did not listen to taped interviews conducted by Detective Tom Cantu, who was promoted and taken off the case about six weeks after the initial allegations surfaced. "I listened to the tapes of the detectives who solved this case"

Cantu was rated "exceptional" each time — all 9s and 10s on a scale of 1 to 10 — by three different evaluators.

If Rosenbaum had listened to Cantu's taped interviews, he would have heard one girl, the daughter of the mother who first brought the allegations of abuse, deny initially that any molestation took place, this on the first interview the child had, with Children Services social worker Sallye Miyara.

Melvin Guyer of the University of Michigan, a specialist in child interviewing techniques, said the first interview a child has with the authorities produces the most reliable information.

Since Rosenbaum said that before trial he listened to the tapes of "the detectives who solved this case," he heard Detective Eladio Andujar introduce himself to one of the boys who was among Nancy Smith and Joseph Allen's accusers in court.

Andujar, who was instructed by his supervisor, Capt. Cel Rivera, to "start fresh," according to Rivera, spoke to the boy June 15, 1993, two days after Cantu was promoted to sergeant and taken off the Head Start case:

"My name is Andujar. I'm going to be the one to try and help you out of this, OK? I'm not going to let no one hurt you. I understand Joseph made some real bad threats to you, making you afraid of him or what he might do to your family or your friends. Am I right?

"OK. Tell you what. You help me find this guy and I will put this guy away. You know your father wants the same thing (the boy's father is present). He wants to get this guy and put him in jail and so do we."

Later in the same interview, when Andujar and the boy's father are trying to establish that Joseph has white dots on his hands (a fact the boy will not confirm), his father says:

"You're changing your story. Don't change. Tell the truth. You don't have to be scared. There's going to be more questions like this asked. You have to tell the truth. OK. You cannot change. You have to tell the truth."

Subsequently, the father again speaks to his son:

"So tell me what you told me last night. That's what I want to know. Joseph's not going to get

prosecutor guidelines

you. I want you to tell all of his secrets.

"Do you remember what I told you about your little sister. Do you want him to get her? And do those things he did to you? Daddy doesn't want that either. You have to help your sister and all the other little kids."

Ralph Underwager, who has written and lectured widely about interviewing techniques in child sexual abuse cases, was asked by The Chronicle to review the police interviews in the Head Start case:

"In many instances when a child does not produce the desired response, the child is directly told they are lying, or they are not telling the truth, or they are not saying what is wanted. This is the most frequent adult behavior in response to a child saying no or denying any touching or untoward behavior. The father of this child is a particularly egregious illustration of this."

Prosecutor White said, "All things being equal, we'd like to listen to the tapes." He said his office's obligations in the Head Start case and others are twofold: "Do we believe that the accused committed the offense and is there enough admissible evidence to obtain a conviction?"

"Experts can criticize all they want after the fact," White said, "but the issue here is, in keeping with our consciences, did we meet our obligations in this case. I think we did."

The prosecutors organization's guidelines also advised those preparing child abuse cases to "talk directly to children before making a charging decision."

Joseph Allen and Nancy Smith were arrested Nov. 3 and Nov. 5, 1993, respectively, according to police and court records. By Nov. 10, the prosecutor's office had presented its case to the grand jury and indictments had been returned.

In the meeting with The Chronicle's top editors and publisher, Rosenbaum said he couldn't remember precisely when he first met with the children. He said he conducted many interviews with the children and that the police were always present when he did.

In an earlier phone conversation, Rosenbaum said that in the beginning he thought he might be "looking at Rule 29," a judge's directed verdict of acquittal, because the children were not responding.

Rosenbaum said he "spent a lot of time getting the kids comfortable," took the children to the courtroom and "may well have" shown the children some of the state's exhibits "to be sure they still remembered them."

The pamphlet from the National Center for Prosecution of Children Abuse contains some of the same cautions that experts in child interviewing express. Prosecutors should limit the number of interviews with the children; they should also limit the number of interviewers, with one-on-one the ideal; and, they should be careful about how questions are posed.

Open-ended and focused questions elicit responses in which the prosecutor can have the most confidence, while responses to yes-no and leading questions are the least reliable.

In his book, "The Real World of Child Interrogations," Underwager described the problem with leading questions:

"The interrogator is supplying information to the witness," Underwager wrote. " 'Did Michael hit you on the arm?' and similar questions can give shape and content to the recall of a memory that is, in fact, vague.

"When an unsure or reluctant witness causes the questioner to guess at what might have occurred and thereby provide information for the witness to affirm or deny, the resultant testimony may be the truth or it may be a fabrication that is mutually agreed upon and believed to be true by both parties."

Richard Gardner, in his book "Sex Abuse Hysteria: Salem Witch Trials Revisited," wrote about the perils inherent in the yes-no question:

"Competent examiners recognize the risks of the yes-no question and generally avoid it. They realize that little information is obtained from a question. This is something that attorneys and judges have yet to discover.

"When one gets a yes or no answer, one does not know whether the interviewee is lying, is telling the truth, or is merely providing an answer (yes or no selected at random) to get the examiner off his (or her) back."



White

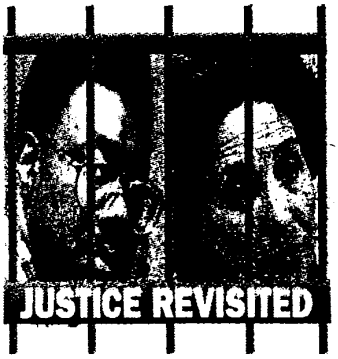
"Experts can criticize all they want after the fact, but the issue here is, in keeping with our consciences, did we meet our obligations in this case. I think we did."

Gregory White
Lorain County prosecutor

A CHRONICLE EXCLUSIVE

Ember turns to wildfire?

By Paul Facinelli
The Chronicle-Telegram ©



Last of a series

On June 3, 1993, Lorain Police Detective Tom Cantu was ready to shut down his investigation of the Head Start child molestation case.

Cantu, who had been assigned to the case from the time the first allegations surfaced nearly a month earlier, was prepared to close the case without any arrests.

In his report on that date, Cantu wrote:

"At this time with the information received from the various complainants, alleged witnesses and mentioned evidence, there is no proof that a male suspect named 'Joseph' exists.

"All of the victims in the case have been interviewed with *much* (emphasis Cantu's) inconsistency and lack of good evidence. At this time the results of the investigation will be forwarded to the Lorain County prosecutor's office for their review."

When Cantu wrote that report there was already a slim likelihood that the investigation would stop with him and his conclusions.

What had begun as an ember — one parent's allegations, one child — had, in a matter of weeks, become a wildfire, spreading rapidly to involve other parents, the media, law enforcement and the highest levels of Lorain officialdom.

At the time of Cantu's June 3 report, the electronic and print media were already involved and numerous parents — some, according to police reports, at the urging of the mother who first brought the allegations — were having their children checked at city hospitals for physical trauma consistent with sexual abuse.

And, in 10 days, Cantu would be promoted and taken off the case. A virtual task force would

See **WILDFIRE,** A2

Chronicle-Telegram/October 8, 1996
(Page A1)

FROM PAGE ONE

WILDFIRE

From A1

replace him. Ohio Attorney General Lee Fisher would assign a "rapid response team," and Lorain County Prosecutor Gregory would also be involved.

The beginnings

The Head Start case began May 7, 1993, when the mother of a Head Start student told police that her daughter had told her that she was taken to "Nancy's house" prior to being taken to school.

There, the child said, according to her mother, "Joseph" urinated on her and other children, although the girl's mother told police she suspected the urine was, in fact, semen.

Continuing, the girl's mother said that Nancy then took the other children upstairs, while Joseph remained in the basement with her daughter. Joseph took the child's clothes off, had her lie down and spread her legs. Joseph then "kissed," "spanked" and "put a stick into" the child's vagina, according to her mother's statement to police.

The mother identified Nancy as her daughter's Head Start bus driver, Nancy Smith.

Cantu, now with the Lorain County Housing Authority, was assigned to the case. He said the child's mother pushed for an arrest right after she made her initial charge.

"I told her I have to have some evidence," Cantu said. "I said, 'I can't arrest someone just based on your accusation.' "

Cantu, with help from the uniformed patrol, was the sole investigator in the early weeks. By late May, however, the child's mother grew impatient.

"She scheduled meetings with other parents, raised hell with us, raised hell with the Community Action Agency," said Lorain Police Chief Cel Rivera, who was the captain in charge of the plainclothes division at the time of the Head Start investigation. The Community Action Agency runs Head Start.

"She was unhappy with Cantu because she said he wasn't returning phone calls, wasn't moving fast enough, wasn't making any arrests."

The woman, along with her daughter's grandmother and Cantu, met with Mayor Alex Olejko to discuss the investigation.

"They raised hell," Olejko said. "I told them, 'We'll handle it.' "

Rivera said he was called to the mayor's office during the visit and explained that investigations like these take time.

"It was an unpleasant exchange," Rivera said.

TV involved

Days later, the child's mother and her fiance involved the electronic media, Rivera said.

The May 28 evening newscast on Cleveland's Channel 8 began with the Head Start case. Channel 8 allowed The Chronicle-Telegram to view the videotape of the Head Start segment.

"Tonight, reports out of Lorain that small children were stuck with pins and forced to drink urine," news anchor Tim Taylor said in his lead-in.

Investigative reporter Tom Meyer, now with Channel 19, handled the coverage. The mother who brought the original allegations, her image electronically distorted to conceal her identity, told Meyer, "My girl was molested. Other kids were, too."

Meyer confronted an Oakdale Avenue man — not Joseph Allen — with the accusation that children had been molested in his home. The man denied the allegations and tried to close his front door. Meyer wedged his arm between the door and the frame. It was the arm with the microphone. With the man and microphone inside the house and not visible, the man continued to deny the accusations.

Meyer said he did three reports on the Head Start molestation case. He said that on the other two the children talked "explicitly" about the allegations of sexual misconduct.

The mother who was Smith and Allen's first accuser, and other parents, spoke to the print media as well.

In Lorain's Morning Journal of May 29, a story contained the comments of alarmed parents who said they were taking their children to the hospital to be examined. Included in this story was a comment from a woman who "heard" that a woman bus driver was involved.

The next story in the Journal concerning the Head Start incident appeared June 10, at the top of the front page. It had quotes from "frustrated parents" who alleged that the police weren't doing anything.

Coverup alleged

One father charged the police with a coverup. One of his comments was pulled out of the story and set into larger type: "I want to make damn sure this doesn't happen to another kid."

Another parent said he feared his stepdaughter and the other children might have been drugged during the alleged molestations.

"What really bothers me is that Lorain Head Start allowed these people (bus drivers) to have so much free time," the stepfather said.

The Journal also reported in its June 10 story that Lee Fisher, the Ohio attorney general, had dispatched a "rapid response team" to Lorain to consult with Children Services workers who were on the case. Lorain County Prosecutor Gregory White told the paper he was looking into the case.

Rivera told the Journal: "It is still a priority case and will remain so until the investigation is complete."

The next day, June 11, the Head Start case drew another large headline at the top of the Journal's front page: "4th kid sexual victim...Reports of chlamydia of 2 males."

Then, on June 13, the newspaper editorialized on the case. The Journal said it understood "the frustration and anger of parents as they wait for the police to make an arrest," urged parents of the other children in the class to have their children checked immediately for signs of abuse and concluded with this paragraph:

"We want the authorities to make an arrest as soon as possible, but we also want them to make an arrest that will stick. Whoever is responsible for these awful crimes against children must not be allowed to escape justice on a technicality."

On the same day the editorial appeared, Cantu, who had been alone on the case since the first allegations surfaced, was promoted to sergeant and taken off the case, according to Rivera. The last Head Start police report signed by Cantu is dated June 15.

In a meeting with The Chronicle's editor, executive editor and publisher, Chief Assistant County Prosecutor Jonathan Rosenbaum discredited Cantu's handling of the investigation. He said it was no secret that Cantu "is not the brightest guy around," and said that his investigation was "biased" and "trash."

In a brief filed with the Ninth District Court of Appeals, Jack Bradley, attorney for Nancy Smith, wrote that the police department considered Cantu's investigation to have been "messed up."

Cop's rating

The Chronicle obtained Cantu's performance reports for 1992 and 1993, the year preceding and the year of the Head Start investigation. There were three reporting periods for the police department over that time. Cantu was rated "exceptional" each time — all 9's and 10's on a scale of 1 to 10 — by three different evaluators.

When Cantu was taken off the case, Eladio Andujar became the lead detective. Over the next several months, until Joseph Allen and Nancy Smith were arrested in early November, Detectives Joel Miller, Nelson Aponte, Mark Carpentiere and Pete Rewak worked on the case as well. So did Rivera, Sgt. Russ Cambarare and several officers from the uniformed patrol.

"It became a very big case," Rivera said.

The police chief at the time, John Malinovsky, said he kept track of the case, but left the decisions in the investigation to Rivera. "There were quite a few officers assigned to the case, and that was unusual," Malinovsky said.

Was this hysteria, a community caught up in a maddened frenzy over allegations of unspeakable crimes against its most innocent members? As a word, hysteria is not easily defined and as a concept, not easily measured.

But Richard Gardner, clinical professor of child psychiatry at Columbia University and author of "Sex Abuse Hysteria, Salem Witch Trials Revisited," offers this general observation from that book about the child sexual abuse dynamic:

"Although many consider themselves independent thinkers, the vast majority are easily swept up with the crowd. Sweeping up a group of people — even to fanatic levels — to espouse some cause is not difficult. Political conventions, religious rallies and death charges on battlefields are examples of this phenomenon.

"And the frenetic pitch of parents involved in...sex abuse allegations is another example. They rally. They scream and rant. They demonstrate and march. They do their utmost to attract attention in the public media. They proselytize for converts. The term *mass hysteria* is as applicable here as it was in the Salem witch trials."

T E L E G R A M
Elyria, Ohio
One Dollar

A CHRONICLE EXCLUSIVE

TOUGH PILL TO SWALLOW

A key witness in the 1994 trial of a Lorain man and a Head Start bus driver was a drug addict who gobbled as many as 10 painkillers a day. A drug investigator's report says she did not kick the years-long habit until a month before the trial. But prosecutors say she was not addicted at the time she witnessed the events she later described in testimony. The jurors were never told about the addiction, and their verdict put the defendants in prison for many years.

THE PLAYERS

JOSEPH ALLEN
• Defendant



NANCY SMITH
• Defendant



JONATHAN ROSENBAUM
• Asst. county prosecutor
• Said Oliver not addicted



EMILY OLIVER
• Head Start bus aide
• Mother of Head Start student
• Key witness and drug addict



A DOUBLE DOSE *of doublespeak from the prosecutor's office. A C-T editorial. Opinion,* **C4**

CREDIBILITY PROBLEMS *cast more disturbing doubts about*

The Chronicle-Telegram

A key prosecution witness in the Head Start child molestation trial was addicted to prescription painkillers for years and did not break the habit until a month before she testified, a drug investigator's report says.

The report conflicts with a statement that assistant Lorain County prosecutor Jonathan Rosenbaum filed shortly after the trial. Rosenbaum wrote that Emily Louise Oliver "was not addicted to these pharmaceuticals at the time she observed the events she testified to."

The Chronicle-Telegram discovered the drug investigator's report in researching the Head Start case.

Lt. Lynn Mudra of the Lorain County Drug Task Force wrote the report Nov. 11, 1994, three months after the trial. He said Oliver had told him that she had been addicted to prescription drugs "for many years," taking "10 or more pills a day" at the peak of her addiction. She told him she "kicked" her habit in June 1994. The trial began in July 1994.

Mudra interviewed Oliver in the county prosecutor's office as part of his investigation of Edward Ciprus, Oliver's dentist, for violation of drug trafficking laws.

On Nov. 3, 1994, Mudra showed Oliver 33 prescriptions written by Ciprus between 1992 and 1994, and she told him that all of them were for her and "only two or three were legitimate and written for therapeutic purposes," his report says.

Ciprus was indicted March 15, 1995, on 32 counts of aggravated trafficking in drugs. The drugs included Tylenol No. 3, Hydrocodone, Vicodin and Lortabs. All of the drugs are codeine-based.

The dates on the charges run from Feb. 21, 1991, until June 14, 1994. The time span covers two key events that Oliver discussed as the first witness at the trial.

Oliver testified that in December 1992 Joseph Allen grabbed her son, William. Allen and Nancy Smith, a Head Start bus driver, were codefendants in the trial.

Oliver also testified about a police lineup Nov. 4, 1993, in which her son, William, and other Head Start pupils participated. She was the only witness to testify about the lineup.

INSIDE



EDWARD CIPRUS, *who prescribed painkillers for Emily Oliver, got probation for drug trafficking, sparing Oliver from having to testify.* **A9**

MONDAY



EMILY OLIVER *admits she gave jurors secondhand information about a police lineup, not strictly eyewitness testimony.*

EAD START

A1

imith and Allen were found
ty in August 1994 of sexu-
/ abusing children, and
/ were sentenced to long
on terms. Smith is serving
- to 90-year sentence at the
o Reformatory for Women
larysville. Allen is serving
fe sentence at Mansfield
rmatory.

ack Bradley, the lawyer
represented Smith at the
, said that if the jury had
wn about Oliver's addic-
it might have made a dif-
ice in the outcome.

'm sure the jury would
liked to have known that
rson's perception may
been altered at the time
witnessed something,"
ley said.

radley said Oliver's drug
tion is yet another exam-
f problems with the case
ist Smith and Allen.

We have to look at this
some common sense," he
"There are just so many
lems developing with this
If all these things that
oming out now are true,
I believe that these two
ns deserve a new trial."

enbaum's brief

1 Dec. 2, 1994, one month
Oliver told Mudra about
addiction, Rosenbaum,
prosecuted Smith and
as chief of the criminal
ion of the county prosecu-
office, filed a brief with
ourt that stated, in part,
s the state's position,
gh Emily Oliver's state-
., that she was not
ted to these pharmaceuti-
it the time she observed
ents she testified to."

brief was filed just
before Smith's motion
new trial would be
d in front of Common
Judge Lynett McGough,
resided at the Head Start
In the brief, Rosenbaum
led no documentation to
ort his position about
's addiction.

ver, 37, disputes Rosen-
's account.

o, I never told him that I
ot addicted," Oliver told
Chronicle-Telegram dur-
phone interview June 3
ner home in Boise, Idaho.

"What I said was that while I was working, I didn't take them."

Oliver, who worked as a Head Start bus aide from December 1992 until February 1993, said she took the painkillers "only at night to help me relax. I took them because sleeping pills made me sick. But I never took them during the day when I was working."

Her testimony about Allen and the lineup concerned events in December 1992 and November 1993. She said she was addicted during both months.

Oliver said she became aware that her drug addiction was public and that her dentist, Ciprus, was the target of an investigation when she returned to Ohio in early November 1994 to settle her grandmother's estate. She had moved to Idaho from Lorain a month before the Head Start trial.

During a break in those talks, she said she met with Rosenbaum in a small office in the county Administration Building.

"I would have been crazy to try and deny my addiction," Oliver said. "He was sitting there with a whole pile of prescriptions in his hand."

Oliver said it was the only meeting she had with Rosenbaum about the Ciprus case. She said she met with Rosenbaum before she met with Mudra.

She said Rosenbaum told her that she would not be prosecuted if she cooperated. She was never charged.

Responding to written questions for Rosenbaum from The Chronicle, Lorain County Prosecutor Gregory White wrote that Rosenbaum's brief, filed Dec. 2, 1994, contained "no assertion that she was not suffering from the effects of the drugs at relevant times. She did state, and maintains to this day, that she was not addicted at the time of her testimony and observations."

Effects of codeine

Codeine, the main ingredient in the drugs prescribed for Emily Oliver, is a painkiller whose effects are very similar to morphine's, although it has only one-sixth to one-tenth of morphine's potency, according to the Encyclopedia of Drug Abuse.

It relieves minor pain and produces a mild euphoria and drowsiness. It also dries the respiratory mucosa and affects the autonomic nervous system, that portion of the nervous system that controls involuntary actions such as breathing and digestion.

Large doses intensify these effects.

In addition to the desired euphoria, addicts experience loss of appetite, depressed sexual drive, itchiness and, most often, constipation and nausea, according to the encyclopedia.

Withdrawal symptoms are relatively mild.

Oliver told Chronicle reporter Pam Plas "of this as well," White wrote.

Oliver did not do so.

White added, "The Chronicle's willful and false equating of suffering from the effects of drug abuse and addiction is a glaring example of The Chronicle's false reporting of this case and is contrary to Ms. Oliver's statements."

Rosenbaum told another Chronicle reporter that he had a tape recording that would discredit the newspaper.

The Chronicle asked the prosecutor's office for a copy of any recent tape recording of a conversation with Oliver. White did not respond.

Oliver's testimony

On the witness stand in court, Oliver said that she was working as a bus aide in December 1992 when Allen grabbed her son's arm as he was waiting to board Smith's bus.

After William, her son, pointed to the man who had grabbed him, she had a confrontation with him, she testified. She identified the man as Allen.

In November 1993, later in the period when she told Mudra she was addicted, she watched William participate in a Lorain Police Department lineup, according to police reports.

She testified that William, on several occasions, picked each of the other men in the lineup, leaving Allen unpicked. She also told the jury that when Allen stepped forward to speak, William jumped back in fright and ran crying from the room.

A videotape of the lineup, which was not played at the trial, conflicts with her account. In it, William, who appears to be having fun, picks up a dead telephone in the observation room and mimics a detective's instructions to the participants in the lineup. He never jumps back in fright or leaves the room crying. He also does not pick every man except Allen.

Dentist's indictment

According to the March 1995 indictment of Ciprus, he wrote a bogus prescription in February 1991 and continued writing them routinely until June 1994, a period of 40 months.

Several different names were used on the Ciprus prescriptions, but Oliver admitted to investigators that all of the prescriptions were for her.

She told Mudra that at the peak of her addiction, she was ingesting "10 or more" codeine-based pills per day. Mudra's report did not say when the peak was. She said she "kicked" the habit on her own in June 1994 after she, her husband and son moved to Boise. The Olivers had lived in Lorain for four years before their move.

Oliver also admitted to Mudra that she had been "doctor shopping" and that three physicians had been writing prescriptions for painkillers for her over the same period that Ciprus was writing them. The physicians were not arrested or charged.

Oliver told The Chronicle that the physicians did not know others were writing prescriptions for her. She said Ciprus did.

"I used my friendship with him to get what I wanted, but, yes, he did know other doctors were writing me prescriptions," Oliver said during the June 3 interview.

County Prosecutor White, responding to a question from The Chronicle about why the physicians were not charged, wrote that "the other doctors were treating Emily Oliver for what they considered legitimate medical reasons and committed no crimes."

Time relationships

Mudra's investigation of Ciprus began in April 1994, 3½ months before the start of the Head Start trial in late July.

Records on the Ciprus case include a handwritten document, unsigned, that lists prescriptions written for Oliver. The document, containing the date May 1994, also includes Emily Oliver's name with the word "addict" written next to it and a citation for a legal case.

Rosenbaum's Head Start brief filed in December 1994 said that the state "hereby gives notice that it has learned after the trial in this matter that Emily Oliver had received illegal prescriptions as a result of her becoming addicted to pharmaceuticals."

Charles Adams, Ciprus' attorney, said he first talked with Ciprus about representing the dentist Aug. 8, 1994, just four days after the Head Start trial ended.

Rosenbaum was the prosecutor in the Ciprus case at the time. When Ciprus was indicted in March 1995 and the case was assigned to Judge McGough, assistant prosecutor Lisa Milasky took over.

Oliver said she returned to Ohio in August 1995, prepared to testify at the Ciprus trial as a prosecution witness.

She never did.

On the day of the trial, Aug. 30, Ciprus pleaded guilty to 28 counts of aggravated drug trafficking.

Federal courts appeal next

Nancy Smith and Joseph Allen have exhausted their appeals in the state courts and plan to take their cases to the federal courts.

James Owen, appeals lawyer for Smith, said he expected to file an appeal in federal court by October.

Ronald Bailey, Allen's appeals lawyer, said he planned to a file an appeal within the next few months.

This Certificate is Awarded to

NANCY SMITH

In recognition of successful completion of

CHOICES for VICTIMS of DOMESTIC VIOLENCE EDUCATIONAL CLASS

In witness thereof, we have affirmed our hand and seal.

Awarded this 27 day of NOVEMBER, 19 95.

V. Valentine, LSW

V. VALENTINE

DRC 4111 (Rev. 6/88)

Certificate of Achievement

awarded to

NANCY SMITH

for completion of the Moral Reasoning and Development program. A seven week study of Kholberg's six stages of moral development on December 28, 1997.

M. Mumma CM S. Kestella UM R. J. Cardine UMA

Current Events Program

Awarded to

Nancy Smith

For completion of the Current Events Program

Presented by

Ohio Reformatory for Women Unit A

Tuesday May 12, 1998

M.Mumma, CM

S.Kestella, UM

R.J.Cardine, UMA



HAS COMPLETED THE

CURRENT EVENTS

GROUP

MR. JORDAN

MS. CARDINE

Certificate of Achievement

This award of distinction is presented

To Nancy Smith

For Superior Achievement & Excellence of

Performance in Watercolor

This 28 *day of* February, *19*98

Signed Mrs. Lambert - Arts + Crafts

T-314 © 1976 1979 TREND enterprises, Inc. St. Paul, MN 55164

Printed in U.S.A.

Certificate of Achievement

awarded to

Nancy Smith

for completion of the Current Events program in Unit A on March 10, 1998

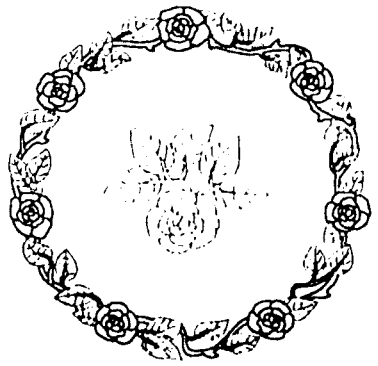
M. Mumma CM S. Kestella UM R. J. Cardine UMA

Certificate of Participation
"Flowing Forgiveness" Experience

This certificate is presented to
Nancy Smith
for participating in the
"Flowing Forgiveness" Experience
January 25, 1999 - April 19, 1999

Archibald H. Bing
Archibald Bing, Chaplain
April 19, 1999
Date

Deanna Corbett
Min. Deanna Corbett, Facilitator
April 19, 1999
Date



PARTICIPATION CERTIFICATE

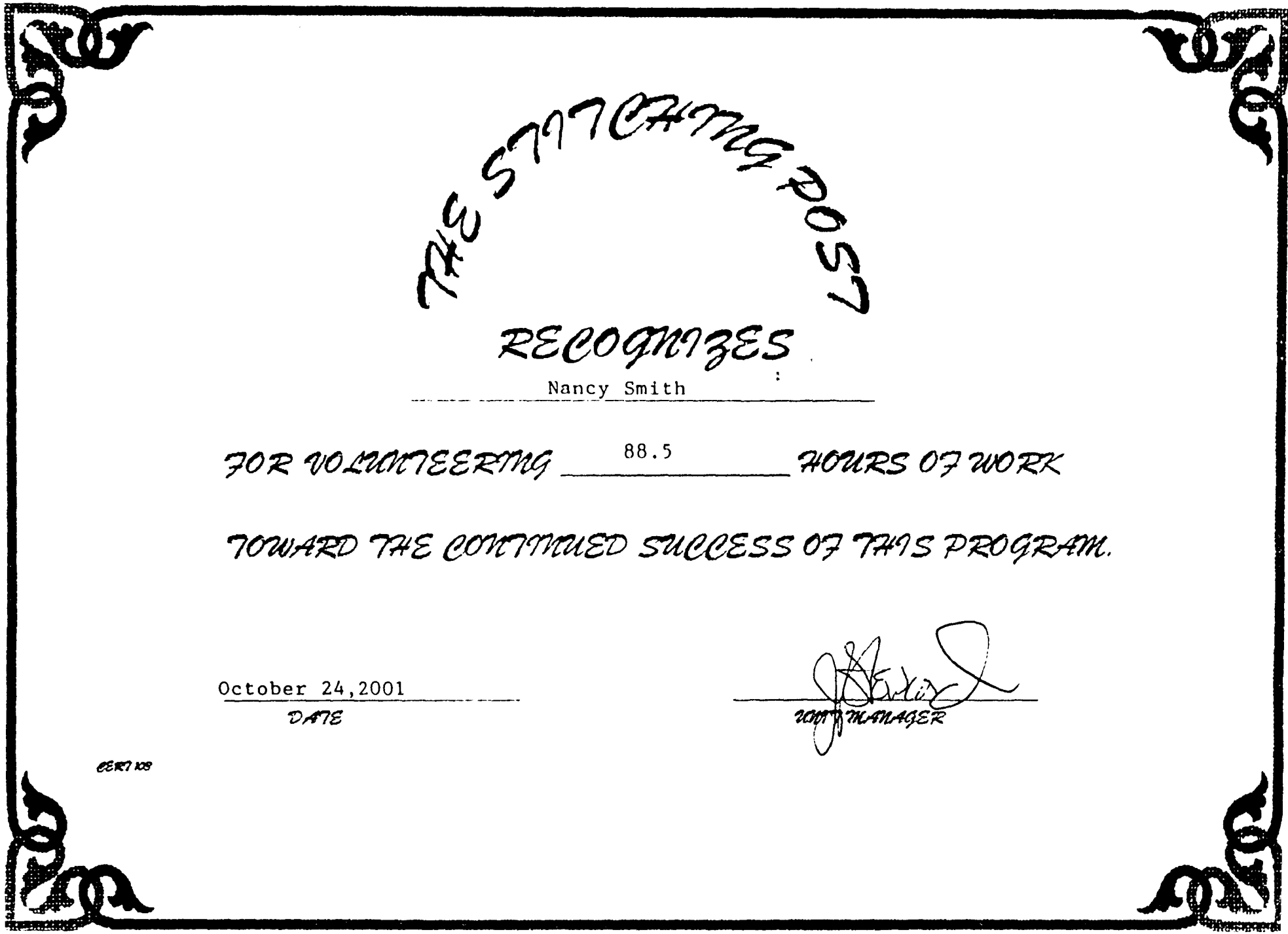
Awarded to

Nancy Smith

WHO'S PARTICIPATION HELPED IN OBTAINING DRC'S DEPARTMENTAL EXCELL AWARD NOV. 01, 2001

Presented by

THE COMMUNITY STITCHING POST



THE STITCHING POST

RECOGNIZES

Nancy Smith

FOR VOLUNTEERING 88.5 HOURS OF WORK

TOWARD THE CONTINUED SUCCESS OF THIS PROGRAM.

October 24,2001
DATE

UNIT MANAGER

CERT 108

THE STITCHING POST

RECOGNIZES

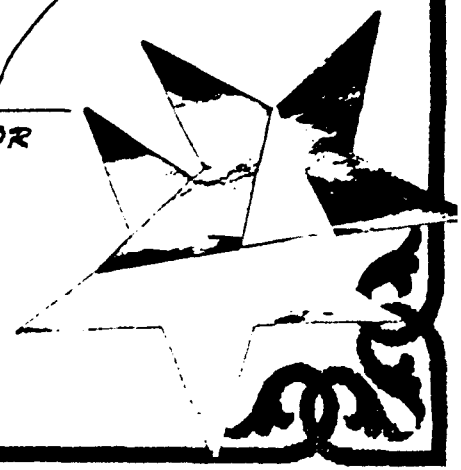
Nancy Smith

FOR VOLUNTEERING 189 HOURS OF WORK

TOWARD THE CONTINUED SUCCESS OF THIS PROGRAM.

November 23,2001
DATE

STAFF COORDINATOR





Certificate of Completion

Ohio Department of
Rehabilitation and Correction
Ohio Central School System

Presented to

Nancy Smith 034-304

Inmate Name and Number

For Successfully Completing the Service-Learning Workshop

on

March 26, 2001

Date Completed

Workshop Facilitator

Institution Principal

Deputy Warden, Special Services

DRC 4291 (11/00)

CERTIFICATE
of
SERVICE

This certificate is presented to

Nancy Smith

for her participation in the service of the L.I.F.E. Group Organization at our Annual Installation Banquet . Our sincere gratitude is extended to you this 11th day of December, 2002.

C Gonzalez

Ms. C. Gonzalez, LIFE Advisor

Clarissa Miller

Ms. Clarissa J. Miller, LIFE President

© 1995 G. Neil Companies
Call 800 959 9111 to reorder # FNCC

Apprenticeship

The other 4-year degree

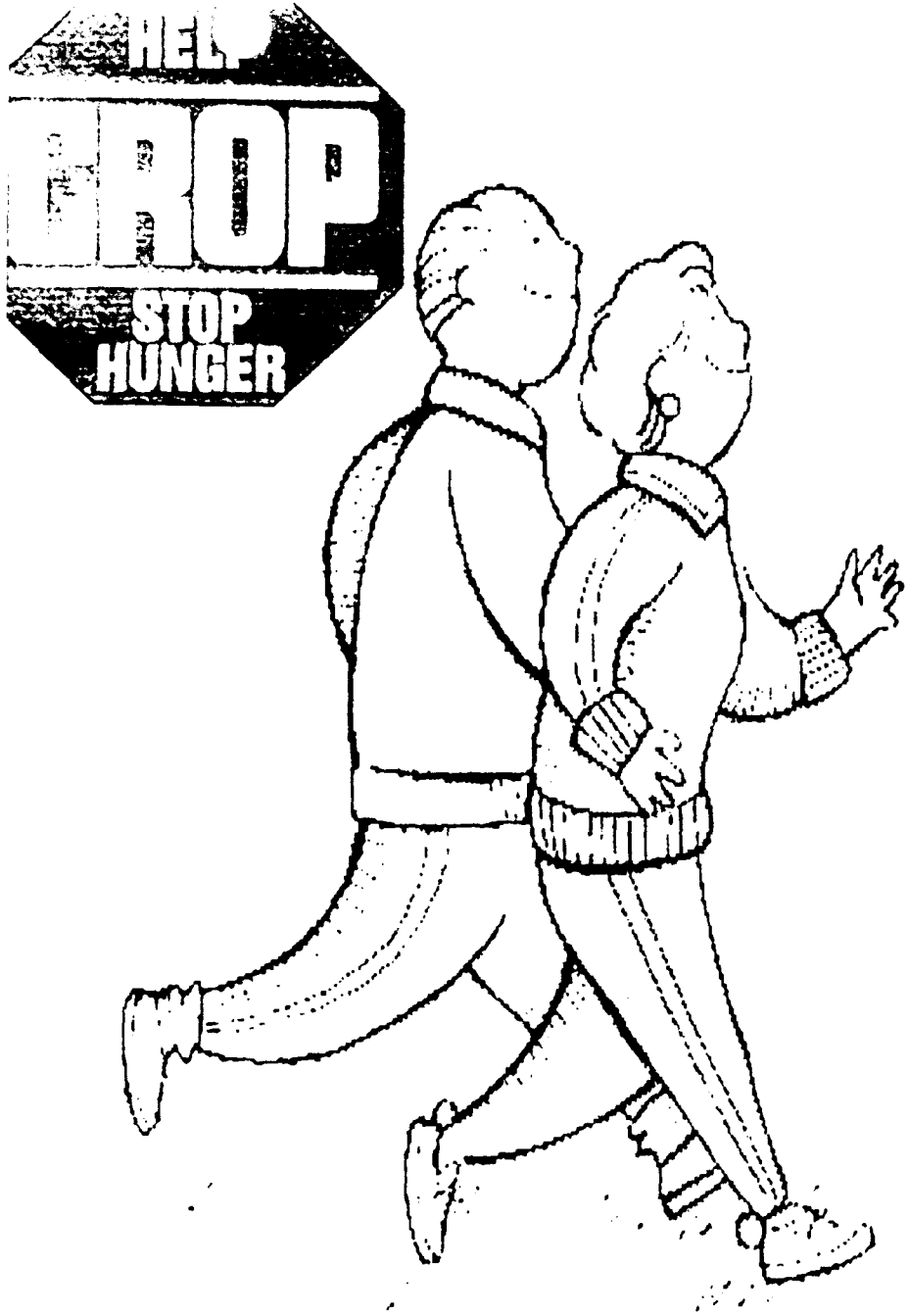
Presented to

Nancy Smith

for 50% completion Horticulturist Apprenticeship

This certificate of achievement entitles the recipient to all the rights and privileges associated with this achievement and to full recognition of same.

Presented this 15th day of November 2004 at Marysville, Ohio



WALKING FOR HUNGER

Certificate of Participation

Awarded To:

NANCY SMITH

By Religious Services Department-ORW

For Your Participation In The

6th annual "Walking for Hunger"

Crop Walk

August 23, 2003

Date

Archibald H. Bing

Rev. Archibald Bing, Chaplain

This is to certify that

Nancy Smith

has successfully completed

40 Days of Purpose

What on earth am I here for?

Wilma Mullet
Instructor

March 9, 2006
Date

CERTIFICATE OF SUCCESSFUL COMPLETION



This certificate is awarded to

Smith 34304

For successful completion

"Money Talks"

This class provides instruction in the following:

- ✓ Personal budgeting
- ✓ How to manage a checking account
- ✓ Saving and Investing
- ✓ Understanding the payroll process
- ✓ The Electronic Banking Industry
- ✓ And a whole lot more...

Facilitator

Date

Our Lady of Lourdes Catholic Church

This certificate is presented to

Nancy Smith

in recognition of her completion of the course of study for the Right of Christian Initiation to the Roman Catholic Church.

Presented this 22nd day of May, 2006

By Fr. David A. Poblador

Pastor

Columbus State Community College

This is to Certify that

Nancy J. Smith

Has Satisfactorily Completed
the course of study for a Document of Recognition in the

Culinary Technology Program

Awarded this *19th* day of *December 2006*

Provost Dr. Kay Adkins

COLUMBUS STATE Community College
550 East Spring Street, PO Box 1609, Columbus OH 43216-1609 Telephone: (614) 287-5353 www.cscc.edu

August 1, 2006

Nancy J. Smith
550 E. Spring St., De103
Columbus OH 43215
USA

Dear Nancy:

Congratulations! We are pleased to inform you that your exemplary grade point average for Spring Quarter 2006 has earned you a position on the Dean's List. This is a wonderful academic achievement!

Naming you to the Dean's List is our recognition of the hard work you have done during this past quarter. Take pride in your academic success and keep up the good work.

Best wishes for your future academic endeavors!

Sincerely,

David Hockenbery, Ph.D., Dean
Arts and Sciences Division

John Marr, Ph.D, Dean
Career and Technical Programs Division

Janet Wagner, Ph.D., Dean
Community Education and Workforce Development Division

COLUMBUS STATE Community College
550 East Spring Street, PO Box 1609, Columbus OH 43216-1609 Telephone: (614) 287-5353 www.cscc.edu

October 3, 2006

Nancy J. Smith
550 E. Spring St., De103
Columbus OH 43215
USA

Dear Nancy:

Congratulations! We are pleased to inform you that your exemplary grade point average for Summer Quarter 2006 has earned you a position on the Dean's List. This is a wonderful academic achievement!

Naming you to the Dean's List is our recognition of the hard work you have done during this past quarter. Take pride in your academic success and keep up the good work.

Best wishes for your future academic endeavors!

Sincerely,

David Hockenbery, Ph.D., Dean
Arts and Sciences Division

Tom Erney, M.A., Interim Dean
Career and Technical Programs Division

Janet Wagner, Ph.D., Dean
Community Education and Workforce Development Division

ancy J. Smith
50 E. Spring St., De103
olumbus OH 43215
SA

ID Number: 0896256
SSN: [redacted]
Birth Date: [redacted]
Birth Name:

Course		Title	Grd	R	Hrs Att	Hrs Cmpt	Grade Points	Course Dates
EV	031	Pre-Algebra	C		5.00	5.00	10.00000	01/03/06-03/18/06
NGL	100	Language Developme	B		5.00	5.00	15.00000	01/03/06-03/18/06
OSP	102	Foodservice Equipm	A		2.00	2.00	8.00000	01/03/06-03/18/06
OSP	103	Hosp Sanittn(SrvSa	A		2.00	2.00	8.00000	01/03/06-03/18/06
OSP	104	Hosp Safty & Secur	A		1.00	1.00	4.00000	01/03/06-03/18/06
		Term 06WICR Totals:			15.00	15.00	45.0000	GPA = 3.0000
		Cumulative Totals:			15.00	15.00	45.0000	GPA = 3.0000
OSP	107	Food Principles	A		5.00	5.00	20.00000	03/27/06-06/10/06
OSP	109	Food Production	A		3.00	3.00	12.00000	03/27/06-06/10/06
ATH	101	Business Math	B		5.00	5.00	15.00000	03/27/06-06/10/06
SRV	297	Service Learning	S		1.00	1.00	0.00000	03/27/06-06/10/06
		Term 06SPCR Totals:			14.00	14.00	47.0000	GPA = 3.6154
		Cumulative Totals:			29.00	29.00	92.0000	GPA = 3.2857
OSP	123	Food Purchasing	A		3.00	3.00	12.00000	06/26/06-09/09/06
OSP	153	Nutri Healthy Life	B		5.00	5.00	15.00000	06/26/06-09/09/06
SCI	101	Cultural Diversity	A		5.00	5.00	20.00000	06/26/06-09/09/06
		Term 06SUCR Totals:			13.00	13.00	47.0000	GPA = 3.6154
		Cumulative Totals:			42.00	42.00	139.0000	GPA = 3.3902
IT	101	PC Applications I	A		3.00	3.00	12.00000	09/20/06-12/09/06
NGL	101	Begin Composition	B		3.00	3.00	9.00000	09/20/06-12/09/06
OSP	293	Hosp Coop Work Exp	A		3.00	3.00	12.00000	09/20/06-12/09/06
OSP	271	Meet Plan & Cate S	A		3.00	3.00	12.00000	09/20/06-12/09/06
		Term 06AUCR Totals:			12.00	12.00	45.0000	GPA = 3.7500
		Cumulative Totals:			54.00	54.00	184.0000	GPA = 3.4717

OTALS: CRED.ATT = 54.00 CRED.CPT = 54.00 GRADE.PTS = 184.0000 GPA = 3.4717

Lorain High School

This Certifies That

Nancy J. Smith

Has completed the graduation requirements as prescribed by the Board of Education and is therefore presented this

Diploma

Given at Lorain, Ohio, this twenty-eighth day of July, nineteen hundred and ninety-two.

Superintendent

President Board of Education

Principal

Treasurer Board of Education

INSTITUTIONAL SUMMARY REPORT

Inmate Number	Inmate Name:		Date.
W-034304	Smith	Nancy	01/25/07

Institution:	Unit	Security Level at Admission:	Current Security Level:
Ohio Reformatory for Women	B	Level 3	Level 1 B

Purpose of Report:

☐ Parole Board (first hearing) ☐ Parole/PRC/TC Packet ☐ Request for information from Courts ☒ Special Request

☐ Parole Board (Continuance) only information since the last hearing should be included on this report

1. DISCIPLINE HISTORY. List all Class II Conduct Reports that resulted in Disciplinary Control (include a brief summation of incident and disposition). If the disposition resulted in DC and/or LC, be sure to check the appropriate box, to indicate this.

☐ This inmate has not received any conduct reports ☒ Inmate has not been to DC

Date:	Summation of Incident: DC ☐ Time: LC ☐ Time:
Date:	Summation of Incident: DC ☐ Time: LC ☐ Time:
Date:	Summation of Incident: DC ☐ Time: LC ☐ Time:
Date:	Summation of Incident: DC ☐ Time: LC ☐ Time:

* These rules have been paraphrased for space; refer to AR-5120-9-06 for exact wording.

(Attach DRC2667-Conduct Report Addendum, if necessary)

☒ The inmate has received 4 conduct reports that did not result in DC

Brief Summation of Incident(s):

2 instances of possession of contraband; 1 instances of disobedience of a direct order

2. Educational participation during this incarceration (please read accross).

☐ Enrolled in Adult Basic Ed classes ☐ Literacy Unit ☐ Pre-GED classes ☐ Quit or was Removed from these

☐ Enrolled in GED classes ☐ Obtained GED ☐ Quit or was Removed from GED classes

☐ Enrolled in college classes ☒ Obtained degree or certificate ☐ Quit or was Removed from college program

☐ Enrolled in vocational program ☒ Completed Vocational program ☐ Quit or was Removed from vocational program

Which Educational Programs?

Vocational Horticulture (7/25/95-7/25/96)	
Culinary Arts Columbus State (12/30/05-12/29/06)	

3 Work History:

A What was the average performance of inmate? ☐ Excellent ☒ Good ☐ Average ☐ Below Avg ☐ Poor

B. What type of work did the inmate perform?

Job Title	Work Location	Status	Length of Employment
Food Service (9/7/04-7/21/95)	Cafe	historic	10 months
School Aid Hort (7/25/96-7/30/01)	education- horticulture	historic	5 years
Hort Apprentice (7/30/01-12/30/05)	education- horticulture	historic	4 yrs 5 mo
Cook-ODR (1/19/07-current)	Cafe	current	2 weeks

4. Program participation

A. What programs were recommended?

Name of Program	Type of Program
SOP	cognitive
Victim Awareness	cognitive

B. What was the level of program participation by the inmate? ☐ Excellent ☒ Good ☐ Average ☐ Below Avg ☐ Poor ☐ Refused to participate ☐ Insufficient time to complete program

C What programs were completed by inmate?

Name of Program	Type of Program	Status
Family Ties Parenting	cognitive	complete 08/08/95
Moral Reasoning and Development	cognitive	complete 12/28/97
Performance in Watercolor	vocational	complete 02/28/98
Current Events	cognitive	complete 03/10/98
Current Events	cognitive	complete 05/12/98

(Attach DRC2668-Program Addendum, if necessary)

NOTE: For Parole Plan choices A through D, complete and attach DRC-2669 Parole Plan Addendum

ADDITIONAL COMMENTS:

Community Service Participation
2001 - 277.5 hrs
2004 - 25 hrs
2005 - 536 hrs
2006 - 436 hrs

Submitted by (Case Manager, please print) Timothy A Tuttle CPS	Date 1/25/07
Signature	
Reviewed by (Unit Manager, please print) James Hoffman UM	Date
Signature	

INSTITUTIONAL SUMMARY - Program Addendum

Inmate Number	Inmate Name:		Date:
W-034304	Smith Nancy		01/25/07
Institution:	**Unit:**	**Security Level at Admission:**	**Current Security Level:**
Ohio Reformatory for Women	B	Level 3	Level 1 B

Name of Program	Type of Program	Status
Choices Domestic Violence	cognitive	complete 11/27/95
Flowing Forgiveness	spiritual	complete 04/19/99
Current Events	cognitive	complete 01/01/00
Service Learning Workshop	educational	complete 03/26/01
Crop Walk	community service	complete 08/23/03
50% Horticulturist Apprenticeship	vocational	complete 11/15/04
40 Days of Purpose	spiritual	complete 03/09/06
Money Talks- Budgeting	cognitive	complete 03/21/06
Rights of Christian Initiation	spiritual	complete 05/22/06

DRC2668 E (07/04)

December 27, 2011

Attorney William Pollak
450 Lexington Avenue
New York, NY 10017

Dear Attorney Pollak,

I first met Nancy Smith at a fund raiser that the people in the community had to help Nancy with her finances after returning home from spending fifteen years in prison.

The scale of justice for certain was unbalanced, and rightly so when they sentenced this woman to prison for a crime that she did not commit. She stated to me that prison was a hell, but if the courts decision were to send her back to prison, again she will never admit guilt until the day she departs from this earth. She said Anne, I did not do these things, and I am innocent of what they have accused me of.

From the general publics stand point of review, 99% believe that she is innocent. The other 1% is of the children's parents who saw dollar signs with law suits, which gained a good amount monetarily. I wonder how well they sleep at night. I state this, because I observed the tape with the children at the Joseph Allen line up. At the conclusion, I cried, it was very up setting. I only hope the Judge, all Attorneys have viewed this disturbing tape of injustice.

I took Nancy out to lunch on Dec. 13. We had a lot of conversation about family and Christmas, she expressed her concern about leaving her family again.

Sitting across from Nancy during our luncheon, I could only see in her eyes, a woman who has endured much pain and rejection from the justice system.

It was evident to see hurt, fear, sadness, anxiety in not knowing the ultimate end.

I plea with the courts to set this innocent woman free, to spend her remaining years with her loving family and grandchildren.
I truly believe in her innocence.

Very truly yours

Anne Molnar

Anne Molnar, City of Lorain, Ohio,
Councilwoman at Large

Rev. Mr. Luis A. Maldonado
9028 Gifford Road
Amherst, OH 44001

February 3, 2012

The Honorable John Kasich
Governor of Ohio
Riffe Center, 30th Floor
77 South High Street
Columbus, OH 43215

Dear Governor Kasich,

I write this letter on behalf of Nancy Smith to request of you justice and freedom that she may be able to spend the years she has left on Earth with her family and friends.

I came to know Nancy and her family in 1993 after being assigned the Pastoral Administrator at St. Joseph Church in Lorain, Ohio. As I became familiar with the family, I found it very difficult to believe that Nancy would do anything to hurt children in any way. However, to the disbelief of many who knew her personally, and some who had firsthand knowledge of the criminal case, she was found guilty.

On August 4th 1994, Nancy Smith began her incarceration at Marysville Correctional Facility for Women. After 15 long years in prison she is home and has come to enjoy the freedoms we all treasure with family and friends. It must be a terrible feeling to spend 15 years of one's life, years never to be recaptured, knowing in your heart and mind that you are innocent of the crime.

In June of 1994 Nancy's mother, Shirley Miller, died knowing that the daughter she raised was not capable of carrying out the crime of which she had been accused. The entire family, Mr. Miller, Nancy's four children, and her six siblings must have been in anguish knowing their daughter, mother, and sister was going to prison while Mrs. Miller was dying. I cannot imagine the hurt and the desperation that Nancy must have been feeling at that time. To be taken away from the people one loves, particularly one's children, must be a dreadful experience. The children were cared for by Mr. Miller and Nancy's siblings. They grew up without their mother attending any of their school functions. Nancy missed their graduations and the weddings of her daughter and her son. She has eight grandchildren whom she was unable to see when born. She was not able to hold or cuddle her children as they grew or her grandchildren at birth. She is presently very excited because her ninth grandchild is to be born.

Mr. Miller died in 2004 while Nancy was serving prison time. She was permitted a private viewing at the funeral home with three of her siblings. She was then taken back to prison and not permitted to participate in the funeral service or witness the burial of her father.

While in prison Nancy learned to paint beautiful designs for her greeting cards. She has expanded her gift as an artist and also paints on canvas. She felt that her spiritual wellbeing was important to her, and she wanted to remain spiritually nourished. While in prison she became involved as a Lector and Sacristan at Mass, and participated in the Kairos retreats as a team member. She found comfort and strength to continue her ordeal as she shared her faith.

Today as she awaits the decision that will affect the rest of her life, she cherishes every moment with family and friends and continues to find strength and hope in her faith. She participates in the many church functions that take place at the parish, and especially gives of her time and talent for specific causes that support the needs of others.

Along with many others in the community, I believe that Nancy Smith has paid enough. Her family has hurt enough. Her greatest desire now is to be able to continue living in freedom with her children and grandchildren. I implore you, Governor Kasich, to grant Nancy Smith clemency that she may continue to live her God-given freedom in justice and peace.

Sincerely,



Rev. Mr. Luis A. Maldonado

December 20, 2011

Dear Governor Kasich:

Nancy Smith has asked me to write a letter in support of her petition for clemency. I am pleased and honored to do so.

As a reporter with the Elyria Chronicle-Telegram, I spent many months investigating what has come to be known as the Head Start child molestation case. The facts I uncovered, most of which the trial jury did not hear, led me to conclude without the slightest reservation that Mrs. Smith and her co-defendant Joseph Allen were wrongly convicted. The body of facts supporting her innocence is voluminous and I believe that any fair-minded person familiar with these facts would be appalled and angered at the outcome of this trial.

A few examples of what I found:

- A videotape of a police lineup showed that most of the alleged victims in this case, several 4- and 5-year-olds, could not pick Mr. Allen out as the perpetrator of the alleged crimes. One "linkage" witness, called by the prosecution to establish a tie between the co-defendants, was given 12 opportunities to identify Mr. Allen as the man who grabbed his arm near Mrs. Smith's school bus. He failed on each of the 12 occasions to identify Mr. Allen. Nevertheless, the boy was allowed to testify at trial eight months later and identified Mr. Allen. The jury did not see the videotape, nor was any witness questioned about the contents of the videotape.
- Four of the alleged victims who testified said they were taken as a group to an undisclosed place where they were sexually abused. Head Start attendance records over the period in question show that on no day during the period in question were the four children absent together. The jury was unaware of the attendance records.
- There was no testimony about the location of the alleged abuse. Nor was there any testimony about the days, times or durations of the abuse. There was no physical evidence presented. These children were alleged to have been abused in horrible ways over many months. It was alleged that they were violated with pins and sticks, forced to eat urine-laced cookies and urinated upon. Yet over that period of months, no parent noticed anything unusual: No bleeding, no bruising, no nausea, no odors and, perhaps most telling, no reports of the alleged abuse from the children.

- The taped interviews with the alleged victims show that they initially denied that anything untoward occurred. Again and again they answered "No" when they were asked whether the alleged abuse occurred. Upon repeated interrogations, however, they changed their answers. This is not unusual, according to the child interrogation experts I interviewed for my investigation. When a question that a child this young has already answered is repeated, the child becomes aware that the first answer was the "wrong" answer. Wishing to please the adult questioner, the child changes his or her answer. The experts who reviewed transcripts of the interrogations in this case said they were some of the worst interviewing techniques they had ever encountered and that the results of the interviews were completely worthless. On a related issue, the two social workers assigned to interview the children told me, almost proudly, that they believed that abuse had occurred and it was their job to get the children to corroborate that belief. They said they held that belief BEFORE they had spoken to any child.
- Finally, there's the logic of the alleged circumstances: Mrs. Smith was to have picked up some 25 children on her Head Start bus route, dropping 21 of them off at the school, then taking the remaining four to an undisclosed location in the middle of the day in a 30-foot-long yellow school bus without anyone witnessing anything. This is to have occurred over a period of several months on a carefully monitored and timed bus route with adults placing the children on the bus, teachers greeting the children and taking attendance at the school and an adult aide assigned to Mrs. Smith's bus. This stretches the prosecution's case far beyond the limits of credibility.

This is just some of what I uncovered during my investigation. There is much more. The idea that Mrs. Smith spent 15 years in prison based on a case so fraught with troubling facts and circumstances is an affront to all fair-minded people. Please, Governor, I urge you to right this terrible wrong by granting Mrs. Smith's petition for clemency, thereby allowing this manifestly innocent person to breathe freely again.

Thank you, sir, for considering my letter of support.

Respectfully submitted,

Paul Facinelli

Paul Facinelli

Governor Kasich

My name is Chase Smith
I am the youngest child of Nancy
Smith. I just turned 12yrs old
when my mother was taken away from
me growing up w/out my mother was
very hard for me I turned to drugs
and alchoic to take the pain away
I was going through. as alittle boy, I
had to grow up w/out the one person
who loved me the most my mom.
Now that my mother is home,
my life is finally getting better my
mom and I live together now, I
am no longer doing drugs, I drink
accasinally but have even stop going
to bars, I am a father of 2 boys
and now I have a place to call home
a place were I can bring my sons.
please grant my mother, this clemacy
that she may stay home w/ her
childen and grand childen It is nice
have her apart of my life again and
I would be devasted if she was
takin away from me once again.
my mother is innocent and deserve
to stay home w/her family, Thanks you
Chase Smith

Dear Governor Kasich,

I am writing on behalf of my mother Nancy Smith. My mother was taken from me at the age of 15 for a crime she did not commit. I spent a good 2 yrs trying to free her and clear her name. There are so many things to prove her innocence if you could find the time to review case like so many have I'm sure you would be just a confident as I am and so many others. My mother has now been home for nearly 3yrs and is currently looking at going back to prison for a crime she did not commit. I cannot imagine going thru this again, I cannot imagine how she would live thru going back again. She is building relationships with her 8 grandchildren that would miss her dearly if she was to be taken away again. Please help to keep her home with her family where she belongs.

This has been a terrible nightmare for all of us. Please help to end this and clear her name.

Thank you for taking the time to read this.

Sincerely, Amber Bronish

12/4/11

TO whom it may concern

My name is Courtney Smith and I am the youngest daughter of Nancy Smith. My mother was a hard working parent who took care of myself and 3 other siblings by working 3 jobs. At the age of 13 she was taken away from me by a great injustice for a crime she never committed. For 15 years of my life she was not able to be there for any of us.

Finally a judge came along to see the case for what it was and cleared my mother has now been home with us for the last several years. She has been able to develop relationships with her eight grandchildren whom she was not able to before or when they were born. She will also be able to see her ninth grandchild come into the world. and has been able to see her son get married. These are just a few of the many things that she has missed that she has been able to be a part of since being home.

We love our mother and are happy that she is home with us to celebrate holidays and family events, to have relationships with grandchildren and our all family. It is not fair that an innocent person should have to suffer all that she has. Please give my mother what she deserves. The right to be home with her family.

Sincerely,
Courtney Smith

Son. Adam Miller

Dear Govenor Kasich,

My name is Adam Miller. I Am the oldest child of Nancy Smith. I Am writing this letter in support of my mother And Asking You, Your Honor. If You please grant my mother her clemacey. I was 18 yrs old when my mother went to prise. I can't even Begin to tell You the pain And heartAche that I went through As well As my other 3 siblings my mother worked many Jobs, to provide A home for us. These Allegations Against my mother Are False, And this nightmare Should end, we Are Finally A Family once Again. And I pray that You will Keep my Family together. we have gone through many thing in life with out her But now we CAn make new memories, And we Are mother very much.

Please grant my mother her clemacy
Sowe can continue on Being A Family
that $ we lost For 14½ years.

thank You

Adam miller

2/7/12

Dear Governor Kasich

My name is Thomas Bronish. I am Nancy Smith's grandson. Please help my grandma stay home. If she was to go back to jail I would be heartbroken and sad. I don't know what I would do without her. I love her with all my heart and want spend my life with her. When she came home I was really happy and if all of it got tooken away I would miss her. Please help her stay home.

Sincerely,
Thomas Bronish

Dear Governor Kasich

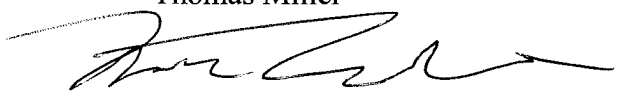
My Name is Thomas Miller I am the brother of Nancy Smith. I am writing this letter in support of my sister and asking you, to grant my sister Nancy Clemency.

I can't even tell you the pain and heartache that this to my family and me when Nancy was sent to prison. These are all false allegations against my sister. My sister was a very hard working single mother at the time trying to make a better life for her 4 kids and herself at the time. We were finally a family again the day my sister was set free. As a family we have gone through to much pain with all the lies being told about my sister. And I think it's time that the justice system do right thing and let my sister live here life.

So please grant my sister clemency so she can get on with the rest of her life.

Thank You

Thomas Miller





Dear Gov. Kasich,

My Aunt Nancy Smith is a wonderful woman who deserves more than she has been dealt with everything that she has been through.

She has served more than enough time for a crime she didn't even commit. She is completely innocent and deserves to be with her family and friends for the rest of her life. Please grant her clemency. We all want nothing more than to have her here with us. She has already lost so much. She's an amazing person.

Sincerely her niece,

Brittany Adamane

To Whom ever it concerns

Nancy Smith is my sister. It has been almost 3 yrs since she had her acquittal and it's been wonderful to have her home.

She has got to be back with her children, grandchildren and the rest of her family.

This whole ordeal has been trying for all of us. To spend 15 yrs in prison for something she didn't do is a nightmare that we still are living even now.

Her life is still in limbo and she needs to be able to move forward and live her life again. Please let this happen for her and put an end to this insanity that she has had to live with almost 20 yrs now.

Thank you,

Diane Rosario-Lopez

Dear Governor,

I am the grandson of Nancy Smith and I am proud for my grandmother to be home but I do not want her to go back to prison she had been taking care of me after school. We play games go places ~~together~~. She has only been with family for 2½ years. I and my relatives would like to keep my grama with us.

Sincerely
Michael

Dear Governor Kasich, (1)

I am writing on behalf of my Sister Nancy Smith. On her behalf I ask you to please grant Clemency to her case. Nancy was wrongfully accused and convicted of horrible atrocities against Children, of which she had no part of. My Sister has Suffered for 18 years dealing with these accusations, as well as her four Children and Countless family members. We all had to Sit and watch our justice System fail Nancy. Her case has brought National attention and She has many

supporters. There are lawyers, ② reporters, Judges and all her family and friends who believe in her innocence. Nancy is a person, a mother of four and a grandmother of mine. She has served 15 years in prison for a crime she did not commit! It is time for ~~M~~ancy's nightmare to end. She needs to enjoy her freedom and to put the past behind her as best as she can. Her life is already ruined, let her live in as much peace as is possible. We love her and support her as we always have and will continue →

to do so as the fight rages on. We will not stop until Justice is served in her case.

Free Nancy Smith Forever!!!

I've known her all my life and know she is an innocently convicted person. Please consider the whole case and correct the mistake that has been done to Nancy.

Sincerely,
Karen Alemane

Dear Governer Kasich,

I am writing this letter on behalf of my sister Nancy Smith, in support of her request for clemency. I have always believed in the law but this is one time when they did not get it right. For 17 yrs. my sister has been in the fight of her life after being wrongfully convicted for crimes that she did not commit. Please just look at the "evidence" that was presented in this case and you will see what a grave miscarriage of justice this was. Do not make her suffer one more day because the authorities entrusted with this case do not want to admit to their mistakes.

Since Nancy has been home she has done nothing but try to regain a normal life. Taking care of her grandchildren, cleaning homes and trying to re-establish the relationships with her family and friends that she was denied for so long. I implore you to give her the final piece to this puzzle and grant this clemency. Nancy is loved and supported by so many who have always believed in her and her innocence. Allow her to finally feel safe and secure once and for all and no longer have to live a life in limbo.

Sincerely,

Melissa Krebs

Meliss Krebs

Dear Sir, 12-1-2011

I am asking for Clemency for Nancy. She has had so many years of torcher in her life. She is a great loving Mother and really wants to spend the rest of her life at home with her family & Friends. This has been the most wonderful few years that we have had her home.

She has missed so much already in the 15 yrs away from us. We need our sister and she needs us.

She has always worked hard and has been an upstanding citizen.

What happened to her was not suppose to have happened but, we understand that life isn't always fair. She is unshakable in her faith in God. We always knew that the Lord would help her come home. Please let her stay home.

Thank you

(a Loving Sister)

Pat Tsirikos
2532 W. 39th St
Lorain, Ohio 44053
440-396-8173

Governor John Kasich
77 South High Street
30th Floor
Columbus, OH 43215

Dear Governor Kasich:

I am writing this letter for you to consider clemency for Nancy Smith. Nancy is my closest cousin as well as my closest friend. We grew up together in a very close family environment. Our kids grew up together, played together and slept over at each other's house. I know the charges against her are false. My daughter never came home afraid to go back and sleep over.

When Nancy was arrested, I can't tell you what that did to our family. We were devastated!!! Her mother died shortly after of an aneurysm, but I know the stress of what one of her children was going through is what killed her.

I visited my cousin in prison for fourteen and half years and supported her emotionally as well as financially. It was not easy on her family. Every time we left her, we cried because we couldn't believe she was living this nightmare.

When she was released and eventually acquitted, it was a very joyous time for our entire family. Having her home to go see her or talk to was a dream come true. I prayed daily about this day coming true.

She now resides in a small home that my parents own. They don't ask for any rent to help Nancy out. She has also helped out at our company whenever we needed the extra help. What she does most of the time is watch her grandchildren. It would be a terrible injustice to put her back in prison (after being out for two years) for something she never did. I believe the state owes her for every year that she served in prison unjustly. But she really wants to be free and live her life in peace. That is why I'm asking you to grant her clemency and end this nightmare once and for all.

Thank you for your consideration.

Yours sincerely,

Beverly Hawks

Beverly Hawks
2765 Fackler St.
Elyria, OH 44035

440-225-3325

My name is Thomas
I am 3 years old. I want
Grandma to come home next
week so I can see her.
I really miss her a lot.
My mom wants to see her.
I want to make cookis with
her.

Dear Sir Nove 25, 2011

I have ben asked to write a letter about nancy smith.

My wife and I have known nancy since 1981, she went with my Son for about 7 years..

Are family are very close to this day. day

nancy has her own house and she is trying to get her life back together.

I know that she was set up on these charges, she wood never do these thing with the black man.

She had a bus driver of at that time and every time that the bus stop it was record.

I feel that she was set up by 2 people: 1, the police man from the city of Jasper, the 2 the attorney from the state of Okie



1615 West 12th Street
Lorain, OH 44052-1268

November 30, 2011

The Honorable John R. Kasich
Office of the Governor
Riffe Center, 30th Floor
77 South High Street
Columbus, Oh 43215-6117

Dear Governor Kasich,

My name is Lorraine Riegel-Kapalin. I am a 53-year-old home-based business owner who has spent most of my life in Lorain, Ohio. I am writing this letter in support of Nancy Smith. I have known Nancy for most of my life and feel that I am qualified to write to you on her behalf.

Nancy and I went to the same schools while we were growing up. My memories of Nancy as a young girl and teenager are very positive. I always viewed her as a good adolescent and she never presented herself as a troublemaker. Her family lived a block away from mine and she walked past my parents' house on a daily basis while traveling to and from school. After we reached adulthood, I was employed as a nail technician at Polished Image Nail Salon in Lorain, where Nancy was a regular client of mine. Over the years, I also saw Nancy with her family at St. Joseph Church in Lorain, where we both were members. She had the same friendly, outgoing and pleasant personality as an adult that I remembered when we were younger. I always viewed Nancy as a very good mother and a positive influence on her children, her family, and her friends.

I have kept in close contact with Nancy and her family since her release and I am not surprised that she has kept a positive outlook on her life. Nancy is residing in the Lorain area, where she has received tremendous support from her family, friends, and Christian community. I have always believed in Nancy's innocence throughout this entire process. I will continue to be by her side and will provide Nancy all the moral support and encouragement she needs. It is because of her Christian background and her resilience that I truly believe she is a productive member of society.

When you make your decision about Nancy's future, please consider the profound impact her release has already had on those of us who truly believe that there are no limits to the positive accomplishments we can achieve together.

Thank you for your consideration in this important matter.

Sincerely,

Lorraine S. Riegel-Kapalin

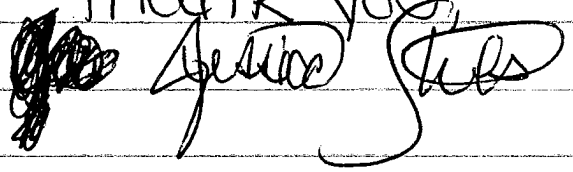
Lorraine S. Riegel-Kapalin
Owner/Baker Sunny's Tasty Treats

Governor Kasich,

My name is Jessica Stiles and I have been friends with the Smith's my entire life. My grandmother and grandfather lived two houses down from them while I was growing up so Amber and I played together all the time. I was always at Nancy's house with her and she was always so kind and caring to everyone. I have fond memories of Nancy sitting on the porch with my grandma drinking coffee talking and laughing for hours as Amber and I played in the yard. Now ~~that~~ I am older and a mother of two daughters. I bring my children over Nancy's house constantly. They love it over there with her grandchildren where she is always laughing and singing songs with them. I love Nancy like a second mother and she does not deserve to be going through any of this. She is an innocent woman who has been wrongfully

imprisoned and in turn I have seen all of her children suffer because of her absence. Now that she is home, she and her children are so grateful but still live with the fear everyday of her going back to prison. And even though she has been released she has always told me the most important thing is to get her name cleared. This poor woman has been through enough that is already so unfair. It is now time for her name to be cleared so she can continue on with her life and not have this hanging over her head. This has gone on way too long.

Thank you,



GOVERNOR KASICH,

MY NAME IS THOMAS BROWN. I AM NANCY SMITH'S SON IN LAW. I AM WRITING THIS LETTER ON HER BEHALF. NANCY SMITH, IN MY OPINION, WAS FALSELY ACCUSED OF A HORRIBLE CRIME IN 1993 INVOLVING HER AND THE HEAD START CHILDREN ON HER BUS. THE ALLEGATIONS AGAINST HER WERE MADE UP BY UNRELIABLE PEOPLE, I BELIEVE STRONGLY. ALL INTENDED FOR THEIR FINANCIAL GAIN.

NANCY WAS RELEASED FROM PRISON AFTER BEING ACQUITTED BY JUDGE BURGE OF THE CHARGES AGAINST HER IN 2009. I HAVE SPENT ALOT OF TIME WITH HER THE PAST THREE YEARS. NOTHING ABOUT NANCY SUGGESTS SHE IS CAPABLE OF HURTING ANYONE, LET ALONE COMMITTING ANY OF THE HORRIBLE CRIMES SHE WAS WRONGFULLY SENT TO PRISON FOR.

I ASK THAT YOU DO WHAT YOU CAN TO HELP CLEAR NANCY SMITH'S NAME AND RIGHT THIS TERRIBLE WRONG THAT'S BEEN DONE. THIS CASE WAS A DISGRACE TO OUR JUDICIAL SYSTEM. FOR IT TO BE MADE RIGHT WOULD BE PROOF THAT THERE STILL IS SOME

JUSTICE LEFT IN THIS WORLD. I HOPE YOU CAN FIND TIME TO REVIEW THIS CASE FOR YOURSELF. I THANK YOU FOR YOUR TIME.

SINCERELY,

THOMAS BRONISH

12-17-11

Governor Kasich,

I am writing this letter in support of Nancy Smith.

I have known Nancy since 1986 and I have always felt that she is a very good person, and a great mother.

I have always believe that all the horrible charges against Nancy are false. I watched her as she was raising her own children and no mother as caring and loving as she is could ever harm another child. She is not a horrible monster that could do those things.

She has already lost so much of her life because of this. This ordeal needs to end and let her try to built her life with her family and try to live a life again that isn't in constant fear of going to jail again for something that she didn't do.

Please give Nancy her freedom back. She is innocent.

Thank You for taking the time to read this.

Linda Johnson

Linda Johnson
1923 East 36th Street
Lorain, Ohio 44055
440-308-5054

To Whom it may concern,

I am writing this on behalf of Nancy Smith. She is a loving woman, mother & grandmother. She has been wrongly accused of this crime. I have known Nancy for 6 yrs. I am asking you for clemency for Nancy so she can continue living a normal life [redacted] She is a good Church going woman.

Thank You
Chuck Catch
2532 W 39TH ST
Lorain, Ohio 44053

To Whom it Concerns

I have known Nancy Miller-Smith since she was four years old. Their home was a very stable and all of the kids were treated well. Nancy was at our house every day. She was like a daughter to us.

She deserves to spend all the rest of her life with her children and grandchildren.

Thank You
Shirley J Morano

Nov 7th 2011

Governor Kasich

My name is Lynne Christner, I've been a Lorain Resident for 57 years. Nancy Smith has been a member of our church (St Joseph's) for at least 40 yrs. I have personally known her for at least that long. She was good friends with my brother since she was sixteen. This situation has been a flawed process to present! I wonder what I would've done if I was in her situation!

The strain on her family 15 years to the present time must have been overwhelming! We all know Nancy is an good and caring person, incapable of doing what was forced on her! What I know of since that time is Nancy has not given up. She has been a care giver to the older members of her family and has also worked with my mother!

She is as much an asset to this community as I am! She deserves the life that was taken from her! Our community need more people like Nancy Smith!

Sincerly

Lynne M Christner

12-7-11

Governor Kasich,

I have known Nancy Smith for 50 years. We have been friends almost all of our lives. Our kids are still friends, We did everything together until the Courts took her away from her family & friends. After 14½ years she spent in prison it finally came to Judge Bruce to look into her case. We are all so happy he believes in her now We wish you could look into her case also, when you do you will see she is innocent of all Charges. Nancy is not that kind of person to do anything she is accused of. I really don't know what I would have done if this happened to me. Nancy is a very strong person and is still fighting for her innocence and has not given up. It is so nice to have my best friend back home! I wish there were more people like Nancy. I love going shopping and spending time with my Best Friend!

Thanks,

Debbie Smith

Nov 19th 2011

Honorable Governor Kasich

I have known Nancy (Miller) Smith for over forty years. Her family and mine have been members of St. Joseph's church in Lorain for forty years. I have personally known her family, parents, brother and sisters for most of my life! They were and are a close and caring and they account for each other the way all caring families do. With all the adversity that Nancy has been subjected to, she has been able to keep her family together! I consider myself a strong person, but I don't think I could have gotten through what Nancy has had to endure. I have not known a stronger more honest person in my life. Nancy has been working for me since she has been able to. My job at U.S Steel sometimes requires long and odd hours and I needed someone I could trust! I easily have thousands of dollars in electronic equipment, musical instruments and tools! Nancy has been invaluable to me and my teenaged son! I intend to keep her working for me into the foreseeable future!

Respectfully

Wayne J. Dittmer

U.S Steel employee 38 yrs

Ronald E. Feldkamp
Elaine D. Feldkamp
950 Lakeview Drive
Lorain, OH 44052

December 9, 2011

The Honorable John R. Kasich
Governor, State of Ohio
Riffe Center, 30th Floor
77 South High Street
Columbus, OH 43215-6117

Dear Governor John Kasich,

Our names are Ronald and Elaine Feldkamp, we are cousins of Nancy Miller. We were first cousins to Nancy's father Tom Miller.

We are writing this letter requesting clemency and pardon for Nancy Miller. Nancy has already served 15 years for this crime that she was falsely accused of. Tom and his wife Shirley raised Nancy and her siblings in a loving Christian family home. Both of Nancy's parents passed away during her imprisonment which was devastating to her, her children, siblings and her large extended family.

We ask that Nancy is granted clemency to remain free and be allowed to make up for the many years lost to her and her family.

Nancy is an active member of her church and has become an asset to her community.

Thank you for your consideration of our request for clemency for Nancy Miller.

Respectfully Submitted,

Ronald E. Feldkamp

Ronald E. Feldkamp

Elaine D. Feldkamp

Elaine D. Feldkamp

Dec. 9, 2011

Jeannette Ceja
1620 West 41st St
Lorain, Ohio 44053

To whom it may concern:

I have know Nancy Smith for twenty five years. Nancy and all of her family are very honest and upstanding in all the years I have known them.

Nancy has always been supportive in Church organizations, fund raisers and many more Charitable events.

The agony the family has gone through has been endured with much help from Church and good friends.

Nancy holds her ground, and will not ever admitt to guilt, because She and her savior Jesus Christ know she is not guilty of these accusations.

Jeannette Ceja

To Whom This May Concern,

I have known Nancy Smith for about 40 years and have always known her to be a caring, giving fine person the whole time that I have known her. She loves her family very much and really needs to be with her children and Grandchildren. What Nancy has been accused of is terrible, but I know the person she is and is not capable of doing anything like that. She is very family oriented and has always been law abiding. She is a fine person that was always respected growing up and still is. I am 100% sure she is not guilty of the things she was accused of.

Thank You
Joseph Stiles

12 November 2011

To Whom It May Concern:

The purpose of this letter is to display our support for Nancy Smith.

We firmly believe that she was wrongly convicted in her original trial. The evidence in the case was flawed, and some was even withheld.

We also believe that her conviction was the result of an over-zealous prosecutor who was out to make a name for himself, even if it was accomplished at the expense of the innocent.

Nancy is the victim here, she has already paid an unjust debt, to subject her to paying it a second time would be a travesty.

We urge you to 'do the right thing' for Nancy and allow her to put this grave miscarriage of justice behind her once and for all.

Thank you for your consideration to this matter, and we remain...

Yours truly,

James M. Krebs
Barbara J. Krebs

James M. and Barbara J. Krebs

To whom it might concern. I have known Nancy Smith for 42 years. I think she was wrongly accused of this horrible act against children. She is a loving mother, grandma + sister, it isn't even in her character to do something like this. Please grant her clemency.

Thank you
so much
Deborah L James
1060 W 38 St
Lorain Ohio 44052
440-452-0967

JOSEPH C. ZIEBA
JUDGE-RETIRED
814 Reid Avenue
Lorain, Ohio 44052
440-244-6131
Fax: 440-244-6132

January 24, 2007

Ohio Adult Parole Authority
1050 Freeway Drive North
Columbus, Ohio 43229

Re: Nancy Smith, Inmate # WO 34304

Dear Ohio Adult Parole Authority:

I am writing in support of parole for Nancy Smith.

I became an Ohio attorney in 1952, after attending Ohio University 1942 to 1943. From 1943 thru 1946 I served in the Army Air Corp as a Lieutenant Pilot, returned to Ohio University and graduated in 1948. Attended Case Western Reserve University and became an Ohio attorney in 1952. I was a general practitioner in Ohio and the Federal Courts. I was subsequently elected in 1988 as a Lorain County Common Pleas Judge – Domestic Juvenile Division, retiring in 1994. I then returned as a visiting Judge in Cuyahoga County in the Juvenile Court primarily working in Custody, Paternity, Adoptions, etc. until I retired in 2004.

I was an active full time and visiting Judge during the time Nancy (Miller) Smith was undergoing criminal proceedings.

As a youngster growing up in Lorain, I was a neighbor and friend of Nancy's father, Tom Miller, and her uncles and relatives. They were highly respected in the community, as parochial school students, religious and church going. As children we grew up in a healthy family environment.

Without reviewing many inconsistencies I personally feel that a grave injustice was perpetrated upon Nancy (Miller) Smith in forcing her to be tried together with Joseph Allen, because of his previous criminal history and incarceration. The circus of identification and stories by 3, 4 and 5 year old children at their parent's active direction and influence would seem to have tainted their testimony and credibility.

This is my first letter to parole authorities. Without going into details of this case, this matter has troubled me for more than 12 years. Based on the previous impeccable record of Nancy (Miller) Smith, a single mother who worked various jobs to sustain four

(4) teen age children, being tried with Joseph Allen was highly prejudicial and unfair to her.

Over the years I have seen and witnessed injustices of various degrees. But this case of Nancy (Miller) Smith is the worst.

The great suffering endured by the loving Miller Smith family cries for amelioration and demands merciful curtailment by this board of Nancy's incarceration. Nancy (Miller) Smith should be allowed to return to her family and society.

Sincerely,

Joseph C. Zieba

Joseph C. Zieba
Judge Retired

JCZ/mmc
cc: The Ohio Innocence Project
University of Cincinnati College of Law
Clifton Avenue at Calhoun Street
Cincinnati, OH 45221-0040

Church of the Sacred Hearts of Jesus and Mary
Roman Catholic Church
4680 U. S. Route 42
Cardington, Ohio 43315-9512
Call us at 419-946-3611 or email us at sacredhearts@bright.net

January 24, 2007

Ms. Bobbi Madonna
University of Cincinnati
College of Law
Clifton Ave. at Calhoun St.
P.O. Box 210040
Cincinnati, OH 45221-0040

Dear Ms. Bobbi Madonna:

I am writing in behalf of Nancy Smith #34304, who is at the Ohio Reformatory For Women.

I was Catholic Chaplain at ORW from July, 1993 until July, 2004. During this time, Nancy Smith and I had many years of communication with one another. She related to me in many ways and many times the whole situation of her conviction. Absolutely, when she communicated her situation, it was always relating the same facts. In other words, she never varied in her story.

Because of this, she was defiantly speaking the truth in regards to her conviction. I am totally convinced with Nancy Smith that she was wrongfully convicted. Nancy Smith is a woman of good character. If she would be released from ORW, Nancy would be an honest and productive person in our society.

If you need any further information from me in regard to Nancy, please feel free to ask.

Sincerely and Best Wishes,

Fr Barry Bentz
Father Barry Bentz

FBB/rj

FILED
LORAIN COUNTY

Nov 10 3 55 PM '93

CLERK OF COURTS

LORAIN COUNTY COMMON PLEAS

THE STATE OF OHIO	:	
	:	THE TERM OF OCTOBER, 1993
VS.	:	CASE NO.
	:	
NANCY SMITH	:	93CR044489
A TRUE BILL INDICTMENT FOR	:	GROSS SEXUAL IMPOSITION, 2907.05(A)(4); ATTEMPTED RAPE, 2923.02(A)/2907.02(A)(1)(b); RAPE, 2907.02(A)(1)(b); COMPLICITY TO RAPE, 2923.03(A)(2)/ 2907.02(A)(1)(b) (2 COUNTS)

THE STATE OF OHIO :
: SS
LORAIN COUNTY :

The Jurors of the Grand Jury of the State of Ohio, within and for the body of the County aforesaid, on their oaths, IN THE NAME AND BY THE AUTHORITY OF THE STATE OF OHIO, Do find and present, that the above named Defendant(s), in the County of Lorain, unlawfully on or about during the period of time from January 1, 1993 to June 1, 1993, did have sexual contact with Antuan Powell, not the spouse of NANCY SMITH, said Antuan Powell being less than thirteen (13) years of age, whether or not NANCY SMITH knew the age of Antuan Powell, in violation of Section 2907.05(A)(4) of the Ohio Revised Code, a Felony in the Third Degree, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

COUNT TWO

The Jurors of the Grand Jury, being first duly sworn, further find and present that: NANCY SMITH, on or about during the period of time from January 1, 1993 to June 1, 1993, at the County aforesaid, did, purposely or knowingly, and with sufficient culpability for the commission of an offense, engage in conduct which, if successful, would constitute or result in a violation of Section 2907.02(A)(1)(b) of the Revised Code, in violation of Section 2923.02(A) of the Ohio Revised Code, an Aggravated Felony in the Second Degree, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

COUNT THREE

The Jurors of the Grand Jury, being first duly sworn, further find and present that: NANCY SMITH, on or about during the period of time from January 1, 1993 to June 1, 1993, at the County aforesaid, did engage in sexual conduct with Antuan Powell, who is not the spouse of NANCY SMITH, the said Antuan Powell being less than thirteen (13) years of age, in violation of Section 2907.02(A)(1)(b) of the Ohio Revised Code, an Aggravated Felony in the First Degree, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

COUNT FOUR

The Jurors of the Grand Jury, being first duly sworn, further find and present that: NANCY SMITH, on or about during the period of time from January 1, 1993 to June 1, 1993, at the County aforesaid, did, knowingly act with the kind of culpability required for the commission of an offense, aid or abet Joseph Lee Allen to commit an offense, to wit: Rape, in violation of Section 2923.03(A)(2) of the Ohio Revised Code, an Aggravated Felony in the First Degree, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

COUNT FIVE

The Jurors of the Grand Jury, being first duly sworn, further find and present that: NANCY SMITH, on or about during the period of time from January 1, 1993 to June 1, 1993, at the County aforesaid, did, knowingly act with the kind of culpability required for the commission of an offense, aid or abet Joseph Lee Allen to commit an offense, to wit: Rape, in violation of Section 2923.03(A)(2) of the Ohio Revised Code, an Aggravated Felony in the First Degree, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

Foreman of the Grand Jury

GREGORY A. WHITE
Prosecuting Attorney

Assistant Prosecuting Attorney

TO: NANCY SMITH

YOU ARE HEREBY ORDERED TO APPEAR AT *;45 O'CLOCK A.M.
ON NOVEMBER 17, 1993 FOR YOUR ARRAIGNMENT IN
LORAIN COUNTY COMMON PLEAS COURT, COURT ROOM NO. 3.

* * * *

The Lorain County Courthouse is located on 2nd Street between Middle Avenue and Court Street, Elyria, Ohio.

* * * *

If you are arrested after the above date, contact the Lorain County Clerk of Courts Office, 329-5536, for the date of your arraignment.

FILED
LORAIN COUNTY, O.
MAY 17 8 09 AM '94
CLERK OF COURTS - PLEAS
DONALD J. ROTHGERY

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

STATE OF OHIO	)	CASE NO. 93CR044489
	)	
Plaintiff	)	JUDGE LYNETT McGOUGH
	)	
vs.	)	
	)	
NANCY SMITH	)	BILL OF PARTICULARS
	)	
Defendant	)	

Now comes the State of Ohio and hereby provides the following as its Bill of Particulars in this case.

COUNT ONE:

On or about the time period set forth in the indictment, the defendant took Antuan Powell to a location to meet Joseph Allen. While at this location the defendant touched the victim's penis for purposes of sexual gratification. The defendant also had the victim touch her breasts. The victim was also made to touch Joseph Allen's penis in the present of and at the urging of the defendant.

COUNT TWO:

On or about the time period set forth in the indictment, the defendant took the victim to a location where he could meet Joseph Allen. At this location the defendant took off her clothes and those of the victim. At this time the defendant laid upon the victim or had the victim lay upon her in an effort to cause him to participate in sexual intercourse. The victim is less than thirteen (13) years of age.

COUNT THREE:

On or about the time period set forth in the indictment, the defendant took the victim and other children to a location to meet Joseph Allen. While at this location she engaged in fellatio with the victim, who is under the age of thirteen (13).

COUNT FOUR:

On or about the time period set forth in the indictment, the defendant took Nikki Zelek to a location to meet Joseph Allen. At that location Joseph Allen engaged in cunnilingus with Nikki Zelek, who is under the age of thirteen (13). This act was also done under the threat of force or force. These threats included spanking, sticking the victim with needles, threatening to kill the victims by appearing at their home disguised as a woman if they did not submit, comply, or told about the defendant's demands or activities.

COUNT FIVE:

On or about the time period set forth in the indictment, the defendant took Antuan Powell to a location to meet Joseph Allen. At the location Joseph Allen engaged in anal intercourse with Antuan Powell under force or the threat of force. This force or threat of force included spanking, striking the victim, sticking the victim with needles, or threatening to kill the victims by appearing at their homes disguised as a woman if they did not submit, comply, or told about the defendant's demands or

activities. These threats also include or extend to members of the victim's family.

Respectfully submitted,

GREGORY A. WHITE
Prosecuting Attorney
Lorain County, Ohio

By:

JONATHAN E. ROSENBAUM
Supreme Ct. No. 21698
Chief Counsel, Criminal Division
226 Middle Avenue, Fourth Floor
Elyria, Ohio 44035
Phone: (216) 329-5393

PROOF OF SERVICE

A copy of the foregoing Bill of Particulars was mailed by regular U.S. Mail this 12 day of May, 1994 to Jack Bradley, Attorney for Defendant, 520 Broadway, Third Floor, Lorain, Ohio 44052.

JONATHAN E. ROSENBAUM
Chief Counsel, Criminal Division

file

FILED
LORAIN COUNTY

JUN 2 3 03 PM '94

CLERK OF COMMON PLEAS
DONALD J. ROTHGERY

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

STATE OF OHIO	)	CASE NO. 94CR045368
	)	
Plaintiff	)	JUDGE LYNETT M. McGOUGH
	)	
vs.	)	
	)	
NANCY SMITH	)	BILL OF PARTICULARS
	)	
Defendant	)	

COUNT ONE:

On or about the time period set forth in the indictment the defendant engaged in sexual contact with Jonathan Gibson by causing Jonathan Gibson to lick her breast. Jonathan Gibson's date of birth is 6-17-88. This conduct occurred at a residence which is unknown to the State of Ohio. The Lorain Police Department is still investigating.

Respectfully submitted,

GREGORY A. WHITE
Prosecuting Attorney
Lorain County, Ohio

By:

JONATHAN E. ROSENBAUM
Supreme Ct. No. 21698
Chief Counsel, Criminal Division
226 Middle Avenue, Fourth Floor
Elyria, Ohio 44035
Phone: (216) 329-5393

PROOF OF SERVICE

A copy of the foregoing Bill of Particulars was mailed by regular U.S. Mail this 2 day of June, 1994 to Jack Bradley, Attorney for Defendant, 520 Broadway, Third Floor, Lorain, Ohio 44052.

JONATHAN E. ROSENBAUM
Chief Counsel, Criminal Division

FILED
LORAIN COUNTY

AUG 4 1 18 PM '94

CLERK OF COMMON PLEAS
DONALD J. ROTHGERY

COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO
Donald J. Rothgery, Clerk

STATE OF OHIO,

Plaintiff

-vs-

Nancy Smith

Defendant

CASE NO. 93CR044481 (94CR045362)

Assistant Prosecuting Attorney

Attorney for Defendant

JUDGMENT ENTRY OF CONVICTION AND SENTENCE

1. Defendant appeared in Court for sentencing after having ~~entered a plea of~~ been found guilty to the following charge(s):

1. Gross Sexual Imposition
 a violation of O.R.C. 2907.05 a 3rd degree felony/~~misdemeanor~~.
2. Attempted Rape
 a violation of O.R.C. 2923.02, 2907.02 a 2nd Agg degree felony/~~misdemeanor~~.
3. Rape
 a violation of O.R.C. 2907.02 a Agg 1st degree felony/~~misdemeanor~~.
4. Complicity to Rape
 a violation of O.R.C. 2923.03, 2907.02 a Agg 1st degree felony/~~misdemeanor~~.
5. Complicity to Rape
 a violation of O.R.C. 2923.03, 2907.02 a Agg 1st degree felony/~~misdemeanor~~.
6. Gross Sexual Imposition
 a violation of O.R.C. 2907.05 a 3rd degree felony/~~misdemeanor~~.
7. _____
 a violation of O.R.C. _____ a _____ degree felony/misdemeanor.
8. _____
 a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

9. _____

a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

10. _____

a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

11. _____

a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

12. _____

a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

13. _____

a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

14. _____

a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

15. _____

a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

16. _____

a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

17. _____

a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

18. _____

a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

19. _____

a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

20. _____

a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

21. _____

a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

22. _____

a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

2. A pre-sentence Report and Investigation were not ordered and completed. A copy was/~~was not~~ shown to the defense.

3. Defendant was present with counsel in open court for sentencing 8-4, 1994. A stenographer was present. Defendant's counsel and defendant were afforded an opportunity to speak and present any information in mitigation of punishment, pursuant to Criminal Rule 32(A)(1).

4. Upon consideration of all matters set forth by law it is the judgment of law and sentence of the Court that defendant be sentenced to a term of confinement of:

1. 2yrs
 in the ORW and pay fine of $— on Ct. I
2. 5 to 15 yrs
 in the ORW and pay fine of $— on Ct. II
3. 7 to 25 yrs
 in the ORW and pay fine of $— on Ct. III
4. 7 to 25 yrs
 in the ORW and pay fine of $— on Ct. IV
5. 7 to 25 yrs
 in the ORW and pay fine of $— on Ct. V
6. 2yrs (Ct 1 in 94CR045368)
 in the ORW and pay fine of $— on Ct. VI
7. All cases and all counts imposed consecutively
 in the _____ and pay fine of $_____ on Ct. VII
8. _____
 in the _____ and pay fine of $_____ on Ct. VIII
9. _____
 in the _____ and pay fine of $_____ on Ct. IX

10. _____

in the _____ and pay fine of $_____ on Ct. X

11. _____

in the _____ and pay fine of $_____ on Ct. XI

12. _____

in the _____ and pay fine of $_____ on Ct. XII

13. _____

in the _____ and pay fine of $_____ on Ct. XIII

14. _____

in the _____ and pay fine of $_____ on Ct. XIV

15. _____

in the _____ and pay fine of $_____ on Ct. XV

16. _____

in the _____ and pay fine of $_____ on Ct. XVI

17. _____

in the _____ and pay fine of $_____ on Ct. XVII

18. _____

in the _____ and pay fine of $_____ on Ct. XVIII

19. _____

in the _____ and pay fine of $_____ on Ct. XIX

20. _____

in the _____ and pay fine of $_____ on Ct. XX

21. _____

in the _____ and pay fine of $_____ on Ct. XXI

22. _____

in the _____ and pay fine of $_____ on Ct. XXII

5. The Defendant shall:

(a) Pay a mandatory fine pursuant to O.R.C. 2925.03(H) of $_____ on Count I; $_____ on Count II; $_____ on Count III; $_____ on Count IV; $_____ on Count V; $_____ on Count VI; $_____ on Count VII; $_____ on Count VIII; $_____ on Count IX; $_____ on Count X; $_____ on Count XI; $_____ on Count XII; $_____ on Count XIII; $_____ on Count XIV; $_____ on Count XV; $_____ on Count XVI; $_____ on Count XVII; $_____ on Count XVIII; $_____ on Count XIX; $_____ on Count XX; $_____ on Count XXI; $_____ on Count XXII.

(b) The mandatory fine listed in 5(a) shall be paid to the Clerk of Courts, who in turn shall pay the same to _____ and 25% to the Lorain County Prosecutor.

(c) Mandatory drug fines under any section of O.R.C. 2925 (other than R.C. 2925.03) shall be disbursed by the Clerk of Court as follows:
50% in care of the Ohio State Board of Pharmacy, _____% to _____ and 25% to the Lorain County Prosecutor.

(d) _____ (If checked) Mandatory fines are HELD IN ABEYANCE pending hearing or/SUSPENDED pursuant to the affidavit of indigency.

6. Defendant is ordered to pay the costs of prosecution _____.

7. Sentence of imprisonment in the _____ is suspended, the fine and costs are not suspended, and the defendant is placed on probation for _____ year(s) ending _____, 199__. Defendant is ordered to serve the first _____ days of his probationary period in the Lorain County Jail.

8. _____ (If checked) Defendant shall be committed to the Lorain County Correctional Facility and, thereafter, be released to the Adult Probation Department for _____ days for electronic monitoring.

9. Defendant is entitled to a credit of ALL days pursuant to R.C. 2967.191, to be applied to his minimum and maximum sentences if confined AS DETERMINED BY LOR CO SHERIFF _____.

10. As a Specific condition of probation, the defendant is ordered to:
_____ Obey all orders and directions of the Adult Probation Department.
_____ Seek Drug/Alcohol Abuse evaluation/counseling.
_____ Make restitution in the amount of $_____.
_____ Seek and maintain employment/vocational training.
_____ No association with _____.
_____ Random urinalysis at Defendant's expense.
_____ Repay court appointed attorney fees within _____.
_____ Fine and costs to be paid within _____ and to be paid in increments of _____.
_____ Intensive Supervision Program.

11. After expiration of the appellate process, all property not forfeited is hereby ordered returned to the victim(s)/owner(s) or sold at public auction with proceeds distributed as provided by law.

_____ Seized money/property _____ in the custody of the police department is ordered forfeited pursuant to Defendant's plea and may be used or sold by the agency with proceeds deposited into law enforcement trust accounts as follows: _____ and 25% to the Prosecutor.

12. After expiration of the appellate process, all contraband and/or drugs are hereby ordered destroyed by the law enforcement agency.

13 . Money not distributed pursuant to paragraph 5 is ordered distributed as follows:

JUDGE